# Colorado Revised Statutes 2014

# TITLE 27

BEHAVIORAL HEALTH

**DEPARTMENT OF HUMAN SERVICES**

**ARTICLE 1**

Department of Human Services

**27-1-101 to 27-1-306. (Repealed)**

**ARTICLE 2**

General Administrative Provisions

**27-2-101 to 27-2-110. (Repealed)**

**MENTAL ILLNESS**

**General Provisions**

**ARTICLE 9**

Commitment and General Provisions

**27-9-101 to 27-9-133. (Repealed)**

## ARTICLE 10

Care and Treatment of Persons
with Mental Illness

**27-10-101 to 27-10-129. (Repealed)**

## ARTICLE 10.3

Child Mental Health Treatment Act

**27-10.3-101 to 27-10.3-108. (Repealed)**

## ARTICLE 10.5

Care and Treatment of Persons With
Developmental Disabilities

### PART 1

### RIGHTS OF PERSONS WITH DEVELOPMENTAL DISABILITIES

**27-10.5-101. Legislative declaration - repeal. (Repealed)**

**27-10.5-102. Definitions.** As used in this article, unless the context otherwise requires:

(1) "Authorized representative" has the same meaning as set forth in section 25.5-10-202, C.R.S.

(2) "Case management services" has the same meaning as set forth in section 25.5-10-202, C.R.S.

(2.3) "Case manager" has the same meaning as set forth in section 25.5-10-202, C.R.S.

(2.5) (Deleted by amendment, L. 2008, p. 1442, 1, effective August 5, 2008.)

(3) "Community-centered board" has the same meaning as set forth in section 25.5-10-202, C.R.S.

(4) (Deleted by amendment, L. 2013.)

(5) "Consent" has the same meaning as set forth in section 25.5-10-202, C.R.S.

(6) "Contribution" has the same meaning as set forth in section 25.5-10-202, C.R.S.

(7) "Court" has the same meaning as set forth in section 25.5-10-202, C.R.S.

(8) "Department" means the department of human services.

(9) "Designated service area" has the same meaning as set forth in section 25.5-10-202, C.R.S.

(10) "Developmental disabilities professional" has the same meaning as "intellectual and developmental disabilities professional" as set forth in subsection (21.5) of this section.

(11) (a) "Developmental disability" has the same meaning as "intellectual and developmental disability" as set forth in section 25.5-10-202, C.R.S.

(b) "Person with a developmental disability" has the same meaning as "person with an intellectual and developmental disability" as set forth in section 25.5-10-202, C.R.S.

(c) "Child with a developmental delay" means:

(I) A person less than five years of age with delayed development as defined by the department; or

(II) A person less than five years of age who is at risk of having a developmental disability as defined by the department.

(12) "Early intervention services and supports" means services described in and provided pursuant to part 7 of this article, including education, training, and assistance in child development, parent education, therapies, and other activities for infants and toddlers and their families that are designed to meet the developmental needs of infants and toddlers including, but not limited to, cognition, speech, communication, physical, motor, vision, hearing, social-emotional, and self-help skills.

(13) "Eligible for supports and services" refers to any person with an intellectual and developmental disability or delay as determined eligible by the community-centered boards, pursuant to section 27-10.5-106.

(13.5) (Deleted by amendment, L. 2008, p. 1442, 1, effective August 5, 2008.)

(13.7) "Enrolled" means that a person with an intellectual and developmental disability who is eligible for supports and services has been authorized, as defined by rules promulgated by the department, to participate in a program funded pursuant to this article.

(14) "Executive director" means the executive director of the department of human services.

(15) "Family" has the same meaning as set forth in section 25.5-10-202, C.R.S.

(15.5) (Deleted by amendment, L. 2013.)

(16) "Gastrostomy tube" has the same meaning as set forth in section 25.5-10-202, C.R.S.

(17) "Human rights committee" has the same meaning as set forth in section 25.5-10-202, C.R.S.

(17.5) "IDEA" means the federal "Individuals with Disabilities Education Improvement Act of 2004", 20 U.S.C. sec. 1400 et seq., as amended, and its implementing regulations, 34 CFR part 303.

(18) "Inclusion" has the same meaning as set forth in section 25.5-10-202, C.R.S.

(19) (Deleted by amendment, L. 2012.)

(19.5) "Individualized family service plan" or "IFSP" means a written plan developed pursuant to 20 U.S.C. sec. 1436 and 34 CFR 303.340 that authorizes the provision of early intervention services to an eligible child and the child's family. An IFSP shall serve as the individualized plan, pursuant to paragraph (c) of subsection (20) of this section, for a child from birth through two years of age.

(20) (a) "Individualized plan" means a written plan designed by an interdisciplinary team for the purpose of identifying:

(I) The needs and preferences of the person or family receiving services;

(II) The specific services and supports appropriate to meet those needs and preferences;

(III) The projected date for initiation of services and supports; and

(IV) The anticipated outcomes to be achieved by receiving the services and supports.

(b) Every individualized plan will include a statement of agreement with the plan, signed by the person receiving services or other such person legally authorized to sign on behalf of the person and a representative of the community-centered board.

(c) Any other service or support plan, designated by the department, that meets all of the requirements of an individualized plan will be considered to be an individualized plan pursuant to this article.

(d) (Deleted by amendment, L. 2013.)

(21) "Infants and toddlers" means a child with a developmental delay from birth through two years of age.

(21.5) "Intellectual and developmental disabilities professional" means a person who has professional training and experience in the intellectual and developmental disabilities field, as defined by the department.

(22) "Interdependence" has the same meaning as set forth in section 25.5-10-202, C.R.S.

(23) "Interdisciplinary team" has the same meaning as set forth in section 25.5-10-202, C.R.S.

(24) "Least restrictive environment" has the same meaning as set forth in section 25.5-10-202, C.R.S.

(25) "Person receiving services" means a person with an intellectual and developmental disability who is enrolled in a program funded pursuant to this article.

(25.5) "Program" means a specific group of services or supports as defined by rules promulgated by the department and for which funding is available pursuant to this article to a person with an intellectual and developmental disability who is eligible for supports and services.

(26) Repealed.

(27) "Regional center" means a facility or program operated directly by the department

that provides services and supports to persons with intellectual and developmental disabilities.

(28) "Service agency" has the same meaning as set forth in section 25.5-10-202, C.R.S.

(29) "Service and support coordination" means planning, locating, facilitating access to, coordinating, and reviewing all aspects of needed and preferred services, supports, and resources that are provided in cooperation with the person receiving services, the person's family, as appropriate, the family of a child with a developmental delay, and the involved public or private agencies. Planning includes the development or review of an existing individualized plan. "Service and support coordination" also includes the reassessment of the needs and preferences of the person receiving services or the needs and preferences of the family of the person, with maximum participation of the person receiving services and the person's parents, guardian, or authorized representative, as appropriate.

(30) "Services and supports" means one or more of the following: Education, training, therapies, identification of natural supports, and other activities provided to:

(a) Enable persons with intellectual and developmental disabilities to make responsible choices, exert greater control over their lives, experience presence and inclusion in their communities, develop their competencies and talents, maintain relationships, foster a sense of belonging, and experience personal security and self-respect;

(b) Enhance child development and healthy parent-child and family interaction for eligible infants and toddlers and their families pursuant to part 7 of this article; and

(c) Enable families, who choose or desire to maintain a family member with an intellectual and developmental disability at home, to obtain support and to enjoy a typical lifestyle.

(31) "Sterilization" has the same meaning as set forth in section 25.5-10-202, C.R.S.

(32) (Deleted by amendment, L. 2013.)

**27-10.5-103. Duties of the executive director - rules.** (1) In order to implement the provisions of this article, the executive director shall carry out the following duties, subject to available appropriations:

(a) Promote effective coordination with agencies serving persons with intellectual and developmental disabilities in order to improve continuity of services and supports for persons facing life transitions from toddler to preschool, school to adult life, and work to retirement;

(b) Conduct appropriate part C child find activities as described in section 27-10.5-704. Part C child find activities conducted by the department shall include, but need not be limited to, case management, referral, transitions, and public education outreach and awareness of early intervention services; and

(c) Operate regional centers pursuant to part 3 of this article.

(2) In accordance with section 24-4-103, C.R.S., and in coordination with the requirements of article 10 of title 25.5, C.R.S., the department shall adopt such rules as are necessary to carry out the provisions and purposes of this article, including but not limited to the following:

(a) Standards for services and supports, including preparation of individualized plans;

(b) Purchase of services and supports and financial administration;

(c) Procedures for resolving disputes over eligibility determination and the modification, denial, or termination of services;

(d) Procedures for admission to programs contained in this article;

(e) Systems of quality assurance and data collection;

(f) The rights of a person receiving services;

(g) Confidentiality of records of a person receiving services;

(h) Designation of authorized representatives and delineation of their rights and duties pursuant to this article;

(i) (I) The establishment of guidelines and procedures for authorization of persons for administration of nutrition and fluids through gastrostomy tubes.

(II) The department shall require that a service agency providing residential or day program services or supports have a staff member qualified pursuant to subparagraph (III) of this paragraph (i) on duty at any time the facility administers said nutrition and fluids through gastrostomy tubes, and that the facility maintain a written record of each nutrient or fluid administered to each person receiving services, including the time and the amount of the nutrient or fluid.

(III) A person who is not otherwise authorized by law to administer nutrition and fluids through gastrostomy tubes is allowed to perform the duties only under the supervision of a licensed nurse or physician. A person who administers nutrition and fluids in compliance with the provisions of this paragraph (i) is exempt from the licensing requirements of the "Colorado Medical Practice Act", article 36 of title 12, C.R.S., and the "Nurse Practice Act", article 38 of title 12, C.R.S. Nothing in this paragraph (i) shall be deemed to authorize the administration of medications through gastrostomy tubes. A person administering medications through gastrostomy tubes is subject to the requirements of part 3 of article 1.5 of title 25, C.R.S.

(IV) For purposes of this paragraph (i), "administration" means assisting a person in the ingestion of nutrition or fluids according to the direction and supervision of a licensed nurse or physician.

(j) Child find activities, as described in section 27-10.5-704.

**27-10.5-103.5. Community centered boards and service agencies - local public procurement units - repeal. (Repealed)**

**27-10.5-104. Authorized services and supports - conditions of funding - purchase of services and supports - boards of county commissioners - appropriation.** (1) Subject to annual appropriations by the general assembly, the department shall provide or purchase, pursuant to subsection (4) of this section, authorized services and supports from community-centered boards or service agencies for persons who have been determined to be eligible for such services and supports pursuant to section 27-10.5-106, and as specified in the eligible person's individualized plan. Those services and supports may include, but need not be limited to, the following:

(a) Early intervention services and supports that offer infants and toddlers and their

families services and supports to enhance child development in the areas of cognition, speech, communication, physical, motor, vision, hearing, social-emotional development, and self-help skills; parent-child or family interaction; and early identification, screening, and assessment services that are provided pursuant to part 7 of this article;

(b) Case management services;

(c) Day services and supports that offer opportunities for persons with intellectual and developmental disabilities to experience and actively participate in valued adult roles in the community. These services and supports will enable persons receiving services to access and participate in community activities, such as work, recreation, higher education, and senior citizen activities. Day services and supports, including early intervention services, may also include the administration of nutrition or fluids through gastrostomy tubes, if administered by a person authorized pursuant to section 27-10.5-103 (2) (i) and supervised by a licensed nurse or physician.

(d) Residential services and supports, including an array of training, learning, experiential, and support activities provided in living alternatives designed to meet the individual needs of persons receiving services and may include the administration of nutrition or fluids through gastrostomy tubes, if administered by a person authorized pursuant to section 27-10.5-103 (2) (i) and supervised by a licensed nurse or physician; and

(e) Ancillary services, including activities that are secondary but integral to the provision of the services and supports specified in this subsection (1).

(2) Service agencies receiving funds pursuant to subsection (1) of this section shall comply with all of the provisions of this article and the rules promulgated thereunder.

(3) Service and support coordination shall be purchased pursuant to part 7 of this article.

(4) (a) The department may purchase services and supports, including service and support coordination, directly from service agencies if:

(I) Required by the federal requirements for the state to qualify for federal funds under Title XIX of the federal "Social Security Act", as amended, including programs authorized pursuant to part 4 of article 6 of title 25.5, C.R.S.; or

(II) The executive director has determined that a service or support provided or purchased by a designated community-centered board does not meet established standards and the continuation of purchase of the service or support through the community-centered board is not in the best interests of the persons receiving services.

(b) The department shall only purchase services and supports directly from those community-centered boards or service agencies that meet established standards.

(c) Nothing in this section shall be construed to prohibit the provision of services and supports, including case management services, directly by the department through regional centers, for persons receiving services in regional centers.

(d) Nothing in this section shall be construed to require the provision of services and supports, including case management services, directly by the department.

(5) (a) Each year the general assembly shall appropriate moneys to the department to provide or purchase services and supports for persons with intellectual and developmental disabilities pursuant to this section. Unless specifically provided otherwise, services and supports shall be purchased on the basis of state funding less any federal or cash funds received for

general operating expenses from any other state or federal source, less funds available to a person receiving residential services or supports after such person receives an allowance for personal needs or for meeting other obligations imposed by federal or state law. The yearly appropriation, when combined with all other sources of funds, shall in no case exceed one hundred percent of the approved program costs as determined by the general assembly. Funds received for capital construction shall not be considered in the calculation for the distribution of funds under the provisions of this section.

(b) The department is authorized to use up to three percent of the appropriation allocated for early intervention services and supports for training and technical assistance to ensure that the latest developments for early intervention services and supports are rapidly integrated into service provision throughout the state.

**27-10.5-104.2. Services and supports - waiting list reduction - cash fund - repeal. (Repealed)**

**27-10.5-104.5. Service agencies - moneys - rules.** (1) A service agency, including a community centered board when acting as a service agency, shall comply with the requirements set forth in this article and the rules promulgated thereunder.

(2) (Deleted by amendment, L. 92, p. 1363, § 5, effective July 1, 1992.)

(3) The department shall promulgate rules to implement the purchase of services and supports from a community-centered board or a service agency. The rules shall include, but need not be limited to:

(a) Terms and conditions necessary to promote the effective delivery of services and supports;

(b) Procedures for obtaining an annual audit of designated community-centered boards and service agencies not affiliated with a designated community-centered board to provide financial information deemed necessary by the department to establish costs of services and supports and to ensure proper management of moneys received pursuant to section 27-10.5-104;

(c) Delineation of a system to resolve contractual disputes between the department and designated community-centered boards or service agencies and between designated community-centered boards and service agencies, including the contesting of any rates that the designated community-centered boards charge to service agencies based upon a percentage of the rates that service agencies charge for services and supports;

(d) Specification of what services and supports are to be reimbursed by the department and secondarily by the community-centered board, the source of reimbursement, actual service or support costs, incentives, and program service objectives which affect reimbursement;

(e) The methods of coordinating the purchase of services and supports, including, but not limited to, service and support coordination, with other federal, state, and local programs which provide funding for authorized services and supports;

(f) (Deleted by amendment, L. 92, p. 1363, § 5, effective July 1, 1992.)

(g) and (h) (Deleted by amendment, L. 2008, p. 2219, § 2, effective June 5, 2008.)

(i) Criteria for and limitations on any rates that designated community-centered boards charge to service agencies based upon a percentage of the rates that service agencies charge for services and supports.

(3.5) Any incorporated service agency which is registered in Colorado as a foreign corporation shall organize a local advisory board consisting of individuals who reside within the designated service area. Such advisory board shall be representative of the community at large and persons receiving services and their families.

(4) Upon a determination by the executive director that services or supports have not been provided in accordance with the program or financial administration standards specified in this article and the rules and regulations promulgated thereunder, the executive director may reduce, suspend, or withhold payment to a designated community centered board, service agency under contract with a designated community centered board, or service agency from which the department of human services purchased services or supports directly. When the executive director decides to reduce, suspend, or withhold payment, the executive director shall specify the reasons therefor and the actions which are necessary to bring the service agency into compliance.

(5) Nothing in this article or in any rules or regulations promulgated pursuant thereto and no actions taken by the executive director pursuant to this article shall be construed to affect the obtaining of funds from local authorities, including those funds obtained from a mill levy assessed by a county or municipality for the purpose of purchasing services or supports for persons with developmental disabilities, or to require that such funds from local authorities be used to supplant state or federal funds available for purchasing services and supports for persons with developmental disabilities.

(6) (Deleted by amendment, L. 92, p. 1363, § 5, effective July 1, 1992.)

**27-10.5-105. Community-centered boards - purchase of services and supports by community-centered boards.** (1) Once a community-centered board has been designated pursuant to section 25.5-10-209, C.R.S., it shall, subject to available appropriations:

(a) Determine eligibility and develop an individualized plan for each person who receives services or supports pursuant to section 25.5-10-211, C.R.S.; except that, for a child from birth through two years of age, eligibility determination and development of an individualized family service plan shall be made pursuant to part 7 of this article;

(b) Provide case management services, including service and support coordination and periodic reviews, for persons receiving services and families with children with intellectual and developmental disabilities;

(c) Obtain or provide early intervention services and supports pursuant to part 7 of this article;

(d) Take steps to notify eligible persons, and their families as appropriate, regarding the availability of services and supports;

(e) Pursuant to section 27-10.5-704, collaborate with the department as it develops and implements a statewide plan for public education outreach and awareness efforts related to part C child find and the availability of early intervention services.

**27-10.5-105.5. Revocation of designation - repeal. (Repealed)**

**27-10.5-106. Eligibility determination.** Any person may request an evaluation pursuant to section 25.5-10-211, C.R.S., to determine whether he or she has an intellectual and developmental disability and is eligible to receive services and supports pursuant to this article. Application for eligibility determination shall be made to the designated community-centered board in the designated service area where the person resides.

**27-10.5-107. Procedure for resolving disputes over eligibility, modification of services or supports, and termination of services or supports.** (1) Every state or local service agency receiving state moneys pursuant to section 27-10.5-104 or section 25.5-10-105, C.R.S., shall adopt a procedure for the resolution of disputes arising between the service agency and any recipient of, or applicant for, services or supports authorized under section 27-10.5-104 or section 25.5-10-105, C.R.S. Procedures for the resolution of disputes regarding early intervention services shall be in compliance with IDEA. The procedures shall be consistent with rules promulgated by the department pursuant to article 4 of title 24, C.R.S., and shall be applicable to the following disputes:

(a) A contested decision that the applicant is not eligible for services or supports;

(b) A contested decision to provide, modify, reduce, or deny services or supports set forth in the individualized plan or individualized family service plan of the person receiving services;

(c) A contested decision to terminate services or supports;

(d) A contested decision that the person receiving services is no longer eligible for services or supports.

(2) (Deleted by amendment, L. 92, p. 1369, § 9, effective July 1, 1992.)

(3) The department shall promulgate rules pursuant to article 4 of title 24, C.R.S., setting forth procedures for the resolution of disputes specified in subsection (1) of this section that shall:

(a) Require that all applicants for services and supports and the parents or guardian of a minor, the guardian, or an authorized representative be informed orally and in writing, in their native language, of the dispute resolution procedures at the time of application, at the time the individualized plan is developed, and any time changes in the plan are contemplated;

(b) Require that a service agency keep a written record of all proceedings specified pursuant to this section;

(c) Require that no person receiving services be terminated from such services or supports during the resolution process;

(d) Require that utilizing the dispute resolution procedure shall not prejudice the future provision of appropriate services or supports to individuals; and

(e) Require that the intended action not occur until after reasonable notice has been

provided to the person, the parents or guardian of a minor, the guardian, or an authorized representative, along with an opportunity to utilize the resolution process, except in emergency situations, as determined by the department.

(3.5) The resolution process need not conform to the requirements of section 24-4-105, C.R.S., as long as the rules adopted by the department include provisions specifically setting forth procedures, time frames, notice, an opportunity to be heard and to present evidence, and the opportunity for impartial review of the decision in dispute by the executive director or designee, if the resolution process has failed.

(4) and (5) (Deleted by amendment, L. 92, p. 1369, § 9, effective July 1, 1992.)

**27-10.5-108. Discharge.** (1) A person receiving services shall be discharged from services or supports upon a determination, made pursuant to the individualized planning process, that the services or supports are no longer appropriate. At least ten days prior to effectuation of the discharge, notification of discharge shall be given to the person receiving services, the parents or guardian of such a person who is a minor, and such person's legal guardian and authorized representative when applicable.

(2) When a person receiving services notifies a service agency that such person no longer wishes to receive a service or support, the person shall be discharged from such service or support unless the person is subject to a petition to impose a legal disability or to remove a legal right, filed pursuant to section 27-10.5-110 or section 25.5-10-216, C.R.S., or for whom a legal guardian has been appointed, affecting the person's ability to voluntarily terminate services or supports. The parents of the person receiving services who is a minor and such person's guardian shall be notified of the person's wish to terminate services or supports, but no minor will be discharged without the consent of the parent or legal guardian.

**27-10.5-109. Community residential home - licenses - rules - repeal. (Repealed)**

**27-10.5-109.5. Compliance with local government zoning regulations - notice to local governments - provisional licensure - repeal. (Repealed)**

**27-10.5-110. Imposition of legal disability - removal of legal right.** (1) Any interested person may petition the court pursuant to section 25.5-10-216, C.R.S., to impose a legal disability on or to remove a legal right from a person with an intellectual and developmental disability as defined in section 25.5-10-202, C.R.S. The petition shall set forth the disability to be imposed or the legal right to be removed and the reasons therefor. The petition may affect the right to contract, the right to determine place of abode or provisions of services and supports, the right to operate a motor vehicle, and other similar rights.

(2) A person shall not be admitted to a regional center without a court order issued pursuant to section 25.5-10-216, C.R.S., except in an emergency or for the purpose of temporary

respite care.

**27-10.5-110.5. Rights of persons with intellectual and developmental disabilities.** Each person receiving services pursuant to this article and article 10 of title 25.5, C.R.S., shall have the rights set forth in sections 25.5-10-223 to 25.5-10-230, C.R.S.

**27-10.5-111. Conduct of court proceedings - repeal. (Repealed)**

**27-10.5-112. Individuals' rights - repeal. (Repealed)**

**27-10.5-113. Right to individualized plan or individualized family service plan - repeal. (Repealed)**

**27-10.5-114. Right to medical care and treatment - repeal. (Repealed)**

**27-10.5-115. Right to humane care and treatment - repeal. (Repealed)**

**27-10.5-116. Right to religious belief, practice, and worship - repeal. (Repealed)**

**27-10.5-117. Rights to communications and visits - repeal. (Repealed)**

**27-10.5-118. Right to fair employment practices - repeal. (Repealed)**

**27-10.5-119. Right to vote - repeal. (Repealed)**

**27-10.5-120. Records and confidentiality of information pertaining to eligible persons or their families - repeal. (Repealed)**

**27-10.5-121. Right to personal property - repeal. (Repealed)**

**27-10.5-122. Right to influence policy - repeal. (Repealed)**

**27-10.5-123. Right to notification - repeal. (Repealed)**

**27-10.5-124. Discrimination - repeal. (Repealed)**

**27-10.5-125. Transfer of residents. (Repealed)**

**27-10.5-126. Return of residents. (Repealed)**

**27-10.5-127. Restoration of rights. (Repealed)**

**27-10.5-128. Sterilization rights - repeal. (Repealed)**

**27-10.5-129. Competency to give consent to sterilization - repeal. (Repealed)**

**27-10.5-130. Court-ordered sterilization - repeal. (Repealed)**

**27-10.5-131. Confidentiality of sterilization proceedings - repeal. (Repealed)**

**27-10.5-132. Limitations on sterilization - repeal. (Repealed)**

**27-10.5-133. Group homes for the developmentally disabled. (Repealed)**

**27-10.5-134. Civil action and attorney fees - repeal. (Repealed)**

**27-10.5-135. Terminology - repeal. (Repealed)**

**27-10.5-136. Adjudication of competency. (Repealed)**

**27-10.5-137. Federal funds - repeal. (Repealed)**

**27-10.5-138. Service provision system evaluation. (Repealed)**

**27-10.5-139. Evaluations to determine whether a defendant is mentally retarded for purposes of class 1 felony trials - repeal. (Repealed)**

**27-10.5-140. Child find - responsibilities - interagency operating agreements - rules. (Repealed)**

**27-10.5-141. Retaliation prohibited - repeal. (Repealed)**

**27-10.5-142. Caregiver abuse - duties of the department - working group - issues - report - funding - repeal. (Repealed)**

**27-10.5-143. Caregiver abuse - task force - repeal. (Repealed)**

PART 2

STATE COUNCIL ON DEVELOPMENTAL DISABILITIES

**27-10.5-201. Legislative declaration.** The general assembly finds that state and local agencies provide a variety of services and supports to persons with developmental disabilities including institutional care, residential, social, and income maintenance services, diagnostic and health-related services, and educational and other programs. Because these services and supports are supported by many diverse agencies and organizations and because congress, through the federal "Developmental Disabilities Services and Facilities Construction Act", and amendments thereto, has called for the establishment of state councils to provide coordination and planning in the field of developmental disabilities, the general assembly declares that there is need to establish a state council on developmental disabilities to be responsible for the coordination of services and supports to the persons with developmental disabilities and to serve as an advocate for such persons. The general assembly further finds that there is need to carefully define the duties and responsibilities of a state council on developmental disabilities.

**27-10.5-202. Definitions.** As used in this part 2, unless the context otherwise requires:

(1) "Developmental disability" means a severe, chronic disability of a person nine years of age or older which:

(a) Is attributable to a mental or physical impairment or combination of mental and physical impairments;

(b) Is manifested before the person attains age twenty-two;

(c) Results in substantial functional limitations in three or more of the following areas of major life activity:

(I) Self-care;

(II) Receptive and expressive language;

(III) Learning;

(IV) Mobility;

(V) Self-direction;

(VI) Capacity for independent living; and

(VII) Economic self-sufficiency; and

(d) Reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services and supports which are of lifelong or extended duration and are individually planned and coordinated; except that such term when applied to infants and young children means individuals from birth to age nine years, inclusive, who have substantial developmental delay or specific congenital or acquired conditions with a high probability of resulting in developmental disabilities if services or supports are not provided.

(2) "State plan" means the state plan for developmental disabilities established pursuant to the provisions of section 27-10.5-204 and as required by the federal "Developmental Disabilities Services and Facilities Construction Act", and amendments thereto, including the "Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978", Pub.L. 95-602.

(3) "State council" means the Colorado developmental disabilities council established pursuant to section 27-10.5-203.

**27-10.5-203. Establishment of state council.** (1) There is hereby created, within the office of the executive director of the department of human services, the Colorado developmental disabilities council. The powers, duties, and functions of the state council are transferred by a **type 1** transfer, as such transfer is defined by the "Administrative Organization Act of 1968", article 1 of title 24, C.R.S., to the department of human services. The state council shall operate in accordance with the federal "Developmental Disabilities Assistance and Bill of Rights Act of 2000", 42 U.S.C. sec. 15001 et seq.

(2) The state council shall consist of twenty-four members appointed by the governor for three-year terms; except that of the members first appointed, one-third shall be appointed for one-year terms, one-third shall be appointed for two-year terms, and one-third shall be appointed for

three-year terms. Vacancies shall be filled by appointment for the unexpired term.

(3) The state council shall at all times include in its membership representatives of the principal state agencies, including the state agency that administers funds provided under the federal "Rehabilitation Act of 1973", the state agency that administers funds provided under the federal "Individuals with Disabilities Education Act", the state agency that administers funds provided under the federal "Older Americans Act of 1965", and the state agency that administers funds provided under Titles V and XIX of the federal "Social Security Act" for persons with developmental disabilities; university centers for excellence in developmental disabilities education, research, and service; nongovernmental agencies; and private nonprofit groups concerned with services and supports for persons with developmental disabilities.

(4) At least one-half of the membership of the state council shall consist of persons who:

(a) Are persons with developmental disabilities;

(b) Are parents or guardians of such persons; or

(c) Are family members or guardians of persons with mentally impairing developmental disabilities, and who are not employees of a state agency which receives funds or provides services and supports under this part 2, and who are not employees implementing programs under the federal "Social Security Act" or of any other entity which receives funds or provides services and supports under this part 2.

(5) Of the members of the state council described in subsection (4) of this section:

(a) At least one-third shall be persons with developmental disabilities;

(b) At least one-third shall be individuals described in paragraph (c) of subsection (4) of this section, and at least one of such individuals shall be an immediate relative or guardian of an institutionalized or previously institutionalized person with a developmental disability.

(6) Members of the state council shall serve without compensation but shall be entitled to reimbursement for their expenses while attending regular and special meetings of the state council.

(7) The state council shall operate in accordance with bylaws adopted by a quorum of its membership.

(8) For the purposes of holding meetings of the council, a quorum shall be a simple majority of the council membership in attendance.

**27-10.5-204. Development of the state plan.** The state council shall develop a five-year state plan for developmental disabilities in accordance with the federal "Developmental Disabilities Assistance and Bill of Rights Act of 2000", 42 U.S.C. sec. 15024. The state plan shall include establishment of goals and priorities for meeting the needs of persons with developmental disabilities, including recommendations concerning state program operations and funding for a comprehensive system of services and supports to persons with developmental disabilities. The state plan shall be prepared in compliance with federal requirements and shall designate the state agency responsible for administration of the state plan. The state council shall submit the state plan to the governor for approval.

**27-10.5-205. Powers and duties.** (1) The state council shall:

(a) Monitor the plans and programs of state agencies established and administered pursuant to the state plan;

(b) Review budgets and other programs and proposals for funding services and supports to persons with developmental disabilities;

(c) Review programs that provide services and supports to persons with developmental disabilities under contracts with state agencies and community centered boards as authorized by the state plan;

(d) Encourage cooperation and coordination of services and supports of public and private agencies including home care services and assist in the elimination of unnecessary and duplicative programs and procedures;

(e) Identify gaps in services and supports to persons with developmental disabilities and monitor programs for deinstitutionalization of such persons;

(f) Serve in an advisory capacity to the governor and the general assembly on matters affecting persons with developmental disabilities;

(g) Meet at least quarterly and as often as necessary to fulfill its duties and responsibilities;

(h) Have all powers necessary to carry out the provisions of this part 2.

**27-10.5-206. State council employees.** Subject to available appropriations, the executive director of the department of human services may employ such personnel as are required by the state council, pursuant to the provisions of section 13 of article XII of the state constitution. The executive director of the department of human services will appoint the staff director to the state council, accepting the recommendations of the council.

**27-10.5-207. Cooperation of departments.** The departments of human services, public health and environment, and education shall cooperate with the state council in the development of and implementation of the recommendations made within the state plan. Said departments shall provide documents and other assistance requested by the state council or its representatives which are essential for the state council to meet its federal and state statutory requirements.

**27-10.5-208. Service provision system evaluation. (Repealed)**

PART 3

REGIONAL CENTERS

**27-10.5-301. Regional centers for persons with developmental disabilities.** There are

hereby established state regional centers in Wheat Ridge, Pueblo, and Grand Junction. The essential object of such regional centers shall be to provide state operated services and supports to persons with developmental disabilities. A regional center may not permit the cultivation, use, or consumption of retail marijuana on its premises.

**27-10.5-302. Directors.** The executive director shall appoint, pursuant to section 13 of article XII of the state constitution, a director for each regional center. Persons appointed must be skilled and trained administrators with experience related to the needs of persons with developmental disabilities. The director of each regional center shall appoint such other employees in accordance with section 13 of article XII of the state constitution as are necessary to carry out the functions of the regional center.

**27-10.5-303. Annual reports - publications.** The director of each regional center shall report to the executive director at such times and on such matters as the executive director may require. Publications of each regional center circulated in quantity outside the department shall be subject to the approval and control of the executive director.

**27-10.5-304. Admissions.** (1) There may be admitted to any regional center persons with developmental disabilities who have been ordered placed in a regional center pursuant to section 27-10.5-110, if the applicant or legal guardian is a bona fide resident of Colorado.

(2) (Deleted by amendment, L. 92, p. 1391, § 40, effective July 1, 1992.)

**27-10.5-305. Endowment fund.** There is hereby authorized the regional center endowment fund. Any parent, person, corporation, or institution may contribute to said endowment fund. The bylaws to be provided by the department of human services shall prescribe the different endowments; but the investments from said endowment fund shall be in state, county, or city bonds or in first mortgages on improved realty for not more than forty percent of the actual value of such realty.

**27-10.5-306. Gifts - receipt and disposition.** Each regional center is hereby authorized to receive gifts, legacies, devises, and conveyances of property, real or personal, that may be made, given, or granted to or for such regional center. If the gifts are not prescribed, the director, with approval of the executive director, shall exercise such authority and make such disposition of the gift property as may be for the best interest of said regional center.

**27-10.5-307. Expenditures.** No moneys shall be paid by the state treasurer out of any other appropriation for, or moneys belonging to, a regional center, except upon warrants of the

controller upon vouchers in favor of the persons to whom the state is indebted on account of said regional center and certified by the director of said regional center.

**27-10.5-308. Buildings - Pueblo. (Repealed)**

**27-10.5-309. Lease of property at regional center - regional center enterprise fund - creation. (Repealed)**

**27-10.5-310. Regional centers task force - creation - members - recommendations - utilization study - reporting - repeal.** (1) Notwithstanding the provisions of section 2-3-303.3, C.R.S., to the contrary, there is hereby created the regional centers task force, referred to in this section as the "task force", which shall study, make recommendations on, and report findings on matters relating to state-operated intermediate care facilities for individuals with intellectual disabilities, established as regional centers pursuant to this part 3, which matters include, but are not limited to:

(a) A needs assessment concerning the number of intermediate care facilities for individuals with intellectual disabilities beds, referred to in this section as "ICF/IID beds", that the state needs to adequately serve individuals with intellectual and developmental disabilities requiring this higher level of care;

(b) Whether the state should operate beds licensed pursuant to the home- and community-based services for persons with developmental disabilities waiver;

(c) Based upon the needs assessment pursuant to paragraph (a) of this subsection (1), the number of current ICF/IID beds that the state should sell, add, or close;

(d) If one or more regional centers should be closed, a strategic plan for client transitions to community placements;

(e) A strategic plan for the future use of the regional centers, including the most efficient use of the buildings and facilities and the staffing levels at each regional center; and

(f) Any other matters relevant to the state's current and future use of the regional centers.

(2) (a) The task force shall consist of the following fifteen members:

(I) Two members of the house of representatives, one member to be appointed by the speaker of the house of representatives and one member to be appointed by the minority leader of the house of representatives;

(II) Two members of the senate, one member to be appointed by the president of the senate and one member to be appointed by the minority leader of the senate;

(III) A representative of the department of human services, to be appointed by the executive director;

(IV) A representative of the department of public health and environment, to be appointed by the executive director of the department of public health and environment;

(V) A representative of the department of health care policy and financing, to be appointed by the executive director of the department of health care policy and financing;

(VI) An advocate for persons receiving services from the regional centers, to be appointed by the executive director;

(VII) A family member of an individual who resides in the Wheat Ridge regional center, a family member of an individual who resides in the Grand Junction regional center, and a family member of an individual who resides in the Pueblo regional center, to be appointed by the executive director;

(VIII) A representative of a community-centered board, to be appointed by the executive director;

(IX) A provider of community services, to be appointed by the executive director;

(X) A representative of an organization in Colorado that exists for the purpose of dealing with the state as an employer concerning issues of mutual concern between employees and the state; and

(XI) A representative of a behavioral health organization with expertise in intellectual and developmental disabilities and co-occurring disorders, to be appointed by the executive director.

(b) All appointments to the task force must be made on or before June 15, 2014.

(c) The executive director shall appoint the chair and vice-chair of the task force.

(d) Legislative and nonlegislative members of the task force are entitled to reimbursement for actual and necessary expenses incurred in the performance of their duties, and legislative members of the task force are entitled to per diem compensation pursuant to section 2-2-307, C.R.S.

(3) The department shall retain a facilitator to facilitate the work of the task force. The facilitator shall prepare quarterly reports to the general assembly's committees of reference with oversight of the regional centers and to the joint budget committee concerning the progress of the task force in meeting its objectives.

(4) The first meeting of the task force must occur no later than July 15, 2014, with the task force meeting as necessary to complete its duties prior to its repeal.

(5) The task force may invite private citizens, representatives from state and local governmental entities, and representatives from public or private organizations to participate in the meetings of the task force, as deemed necessary and appropriate by the members of the task force. The task force may also solicit and accept reports, written comments, public testimony, and other data relevant to the task force.

(6) The chair of the task force may establish one or more subcommittees as necessary to focus on matters relating to the duties of the task force. The chair shall appoint subcommittee members, which members may include persons who are not task force members.

(7) The task force shall submit written reports, including the task force's findings and recommendations concerning the state's regional centers, to the department, to the general assembly's committees of reference with oversight of the regional centers, and to the joint budget committee to be presented in 2014 and 2015 as part of the departmental presentations to the legislative committees of reference pursuant to section 2-7-203, C.R.S.

(8) The task force's recommendations may include recommendations for legislation to

the legislative council in conformance with rule 24 of the joint rules of the senate and the house of representatives. Legislation recommended by the task force shall be treated as legislation recommended by an interim committee for purposes of introduction deadlines or bill limitations imposed by the joint rules of the general assembly. A majority of the legislative members of the task force must approve the task force's recommendations for legislation to the legislative council.

(9) The department shall provide support staff to the task force and the task force facilitator.

(10) (a) As soon as possible thereafter, the department shall contract for a utilization study of the state's regional centers established pursuant to this part 3 with respect to the needs of the state for regional centers and the most appropriate and cost-effective use of the regional centers' beds and facilities. The utilization study must address:

(I) The issues set forth in subsection (1) of this section;

(II) The ability of the community to provide services to individuals able to transition to the community pursuant to the United States supreme court's ruling in *Olmstead v. L. C.*, 527 U.S. 581 (1999); and

(III) Any other matters that the department determines are relevant to the state's current and future use of the regional centers.

(b) The department shall not select a vendor to perform the contract if the vendor has a known conflict of interest that may interfere with its ability to perform an objective analysis.

(c) The vendor shall present the completed utilization study, including its analysis, findings, and recommendations, to the department no later than December 1, 2014. The department shall present the utilization study to the task force at a task force meeting scheduled for that purpose.

(d) The department shall present the utilization study to the general assembly's committees of reference with oversight of the regional centers and to the joint budget committee as part of the departmental presentations to the legislative committees of reference pursuant to section 2-7-203, C.R.S.

(11) Prior to December 31, 2015, the department shall not sell any state-operated regional centers and shall maintain an adequate number of beds at the regional centers for individuals who transitioned to the community within the preceding six months, but who have been identified by a community-centered board and the individual's legal guardian as having had an unsuccessful transition. The department shall permit the individual to return to a state-operated regional center bed pursuant to section 27-10.5-110 and applicable federal law.

(12) This section is repealed, effective December 31, 2015.

## PART 4

## FAMILY SUPPORT SERVICES

**27-10.5-401 to 27-10.5-408. (Repealed)**

PART 5

COLORADO FAMILY SUPPORT LOAN FUND

**27-10.5-501 to 27-10.5-504. (Repealed)**

PART 6

STUDY OF SELF-SUFFICIENCY TRUSTS

**27-10.5-601. (Repealed)**

PART 7

COORDINATED SYSTEM OF PAYMENT FOR EARLY INTERVENTION SERVICES FOR INFANTS AND TODDLERS

**27-10.5-701. Legislative declaration.** (1) The general assembly hereby finds that:

(a) There is an urgent and substantial need to enhance the development of infants and toddlers with disabilities, to minimize their potential for developmental delay, and to recognize the significant brain development that occurs during a child's first three years of life;

(b) The longer a child's developmental delays are not addressed, the more developmental difficulties the child will experience in the future, the less prepared the child will be for school, the more special education needs the child is likely to have, and the more costly those problems will be to address;

(c) The capacity of families to meet the special needs of their infants and toddlers with disabilities needs to be supported and enhanced;

(d) Colorado's system for providing early intervention services to eligible infants and toddlers from birth through two years of age with significant developmental delays and disabilities relies on multiple sources of funding;

(e) The early childhood and school readiness commission, which was the successor of the child care commission, was created in the 2004 legislative session to study, review, and evaluate the development of plans for creating a comprehensive early childhood system;

(f) The early childhood and school readiness commission extensively studied and evaluated issues regarding early intervention services for infants and toddlers who have delays in development and learned that there is no coordinated system of payment for early intervention services, resulting in the provision of disjunctive or interrupted services to eligible children and inadequate reimbursement of early intervention service providers;

(g) The early childhood and school readiness commission was also informed that many

eligible children are covered as dependents by their parents' health care plans, but some of the plans may deny benefits for early intervention services, thereby eliminating a source of private funds for the payment of early intervention services;

(h) Pursuant to part C of the federal "Individuals with Disabilities Education Act", 20 U.S.C. sec. 1400 et seq., there is an urgent and substantial need to facilitate the coordination of payment for early intervention services from federal, state, local, and private sources, including public medical assistance and private insurance coverage;

(i) Existing levels of local, state, federal, and private funding may be more efficiently used, more children may be served, and a higher quality of services may be provided if the existing early intervention system is modified to create a more coherent and coordinated system of payment for early intervention services;

(j) The involvement of a child's primary health care provider and other health care providers is an essential component of effective planning for the provision of early intervention services; and

(k) The provision of early intervention services is intended only to meet the developmental needs of an infant or toddler and not to replace other needed medical services that are recommended by the child's primary health care provider.

**27-10.5-702. Definitions.** As used in this part 7, unless the context otherwise requires:

(1) "Administrative unit" means a school district, a board of cooperative services, or the state charter school institute that is providing educational services to exceptional children and that is responsible for the local administration of the education of exceptional children pursuant to article 20 of title 22, C.R.S.

(2) "Carrier" has the same meaning as set forth in section 10-16-102 (8), C.R.S.

(3) "Certified early intervention service broker" or "broker" means a community-centered board or other entity designated by the department of health care policy and financing pursuant to section 25.5-10-209, C.R.S., to perform the duties and functions specified in section 27-10.5-708 in a particular designated service area. Notwithstanding the provisions of section 27-10.5-104 (4), if the department of health care policy and financing is unable to designate a community-centered board or other entity to serve as the broker for a particular designated service area, the department shall serve as the broker for the designated service area and may contract directly with early intervention service providers to provide early intervention services to eligible children in the designated service area.

(4) "Child find" means the program component of IDEA that requires states to find, identify, locate, evaluate, and serve all children with disabilities, from birth to twenty-one years of age. Child find includes:

(a) Part C child find, which is the program component of IDEA that requires states to find, identify, locate, evaluate, and serve children from birth through two years of age; and

(b) Part B child find, which is the program component of IDEA that requires states to find, identify, locate, evaluate, and serve children from three to twenty-one years of age.

(5) "Coordinated system of payment" means the policies and procedures developed by

the department, in cooperation with the departments of education, health care policy and financing, and public health and environment, the division of insurance in the department of regulatory agencies, private health insurance carriers, and certified early intervention service brokers, to ensure that available public and private sources of funds to pay for early intervention services for eligible children are accessed and utilized in an efficient manner.

(6) "Department" means the department of human services.

(7) "Early intervention services" means services as defined by the department in accordance with part C that are authorized through an eligible child's IFSP and are provided to families at no cost or through the application of a sliding fee schedule. Early intervention services, as specified in an eligible child's IFSP, shall qualify as meeting the standard for medically necessary services as used by private health insurance and as used by public medical assistance, to the extent allowed pursuant to section 25.5-1-124, C.R.S.

(8) "Early intervention state plan" means the state plan for a comprehensive and coordinated system of early intervention services required pursuant to part C.

(9) "Eligible child" means an infant or toddler, from birth through two years of age, who, as defined by the department in accordance with part C, has significant delays in development or has a diagnosed physical or mental condition that has a high probability of resulting in significant delays in development or who is eligible for services pursuant to section 27-10.5-102 (11) (c).

(10) "Evaluation" means:

(a) For the purposes of part C child find, the procedures used to determine a child's initial and continuing eligibility for part C child find, including but not limited to:

(I) Determining the status of the child in each of the developmental areas;

(II) Identifying the child's unique strengths and needs;

(III) Identifying any early intervention services that might serve the child's needs; and

(IV) Identifying priorities and concerns of the family and any resources to which the family has access.

(b) For the purposes of part B child find, the procedures used under IDEA for children with disabilities to determine whether a child has a disability and the nature and extent of special education and related services that the child will need.

(11) "Individualized family service plan" or "IFSP" means a written plan developed pursuant to 20 U.S.C. sec. 1436 and 34 CFR 303.340 that authorizes the provision of early intervention services to an eligible child and the child's family. An IFSP shall serve as the individualized plan, pursuant to section 27-10.5-102 (20) (c), for a child from birth through two years of age.

(12) "Multidisciplinary team" means the involvement of two or more disciplines or professions in the provision of integrated and coordinated services, including evaluation and assessment activities defined in 34 CFR 303.322 and development of the child's IFSP.

(13) "Part B" means the program component of IDEA that requires states to find, identify, locate, evaluate, and serve children with disabilities from three to twenty-one years of age.

(14) "Part C" means the early intervention program for infants and toddlers who are eligible for services under part C of the federal "Individuals with Disabilities Education Act", 20 U.S.C. sec. 1400 et seq.

(15) "Private health insurance" means a health coverage plan, as defined in section 10-16-102 (34), C.R.S., that is purchased by individuals or groups to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services, as defined in section 10-16-102 (33), C.R.S., provided to a person entitled to receive benefits or services under the health coverage plan.

(16) "Public medical assistance" means medical services that are provided by the state through the "Colorado Medical Assistance Act", articles 4 to 6 of title 25.5, C.R.S., or the "Children's Basic Health Plan Act", article 8 of title 25.5, C.R.S., or other public medical assistance funding sources to qualifying individuals.

(17) "Qualified early intervention service provider" or "qualified provider" means a person or agency, as defined by the department by rule in accordance with part C, who provides early intervention services and is listed on the registry of early intervention service providers pursuant to section 27-10.5-708 (1) (a).

(18) "Service coordination" means the activities carried out by a service coordinator to assist and enable an eligible child and the eligible child's family to receive the rights, procedural safeguards, and services that are authorized to be provided under the early intervention program.

(19) "State interagency coordinating council" means the council that is established pursuant to part C and appointed by the governor to advise and assist the lead agency designated or established under part C.

**27-10.5-703. Administration - duties of department - rules.** (1) Subject to annual appropriation from the general assembly, the department shall administer early intervention services and shall coordinate early intervention services with existing services provided to eligible infants and toddlers from birth through two years of age and their families.

(2) The department shall promulgate rules, pursuant to section 27-10.5-103, as necessary for the implementation of this section and to ensure that all IDEA timelines and requirements are met, including but not limited to administrative remedies if the timelines and requirements are not met.

(3) In administering early intervention services, the department shall have and perform the following duties:

(a) To design early intervention services in a manner consistent with part C;

(b) To develop and promulgate rules after consultation with the state interagency coordinating council;

(c) To ensure eligibility determination for a child with disabilities from birth through two years of age, based in part on information received concerning the screening and evaluation performed by an administrative unit pursuant to section 22-20-118, C.R.S.;

(d) To ensure that an individualized family service plan is developed for infants and toddlers from birth through two years of age who are eligible for early intervention services. The IFSP shall be developed in compliance with part C and in coordination with part C child find evaluations where applicable, including the mandatory IFSP meeting at which the family receives information concerning the results of the child find evaluation performed by an administrative

unit pursuant to section 22-20-118, C.R.S. The initial IFSP shall be developed in collaboration with a representative from the administrative unit that participated in the child's screening and evaluation performed pursuant to section 22-20-118, C.R.S. The representative shall participate in the initial meeting for the development of the child's IFSP.

(e) To allocate moneys;

(f) To coordinate training and provide technical assistance to community centered boards, service providers, and other constituents who are involved in the delivery of early intervention services to infants and toddlers from birth through two years of age;

(g) To monitor and evaluate early intervention services provided through this part 7; and

(h) To coordinate contracts, expenditures, and billing for early intervention services provided through this part 7.

**27-10.5-704. Child find - responsibilities - interagency operating agreements - rules.** (1) The department shall have the following responsibilities and duties for children from birth through two years of age who are referred for early intervention services:

(a) To develop and implement, in coordination with community centered boards, service agencies, governmental units, and the departments of education, public health and environment, and health care policy and financing, a statewide plan for public education, outreach, and awareness efforts related to child find and the availability of early intervention services;

(b) To ensure that referrals from the community are accepted and families are assisted in connecting with the appropriate agency for intake and case management services;

(c) To ensure that intake and case management services are provided after a referral has been made by working with community centered boards as the single entry point for a family into the developmental disabilities system, as described in section 27-10.5-102 (3); and

(d) To work with community centered boards, administrative units, and the department of education to assist a child with disabilities as he or she transitions from the developmental disabilities system into the public education system at no later than three years of age as required by IDEA.

(2) To facilitate the implementation of part C child find activities that are the responsibility of the department pursuant to this part 7 and to implement an effective and collaborative system of early intervention services, the department shall enter into any necessary interagency operating agreements at the state level, and community centered boards and other local agencies shall enter into any necessary interagency operating agreements at the local level.

(3) To facilitate the implementation of part C child find and the use of medicaid funds, the department and community centered boards may, when appropriate, share information with the department of education, the department of health care policy and financing, or administrative units that offer child find services pursuant to section 22-20-118, C.R.S., so long as each department or local agency acts in compliance with the federal "Health Insurance Portability and Accountability Act of 1994", 42 U.S.C. sec. 1320d.

**27-10.5-705. Authorized services - conditions of funding - purchases of services -**

**rules.** (1) The department shall promulgate rules as are necessary, in accordance with this part 7 and consistent with section 27-10.5-104.5, to implement the purchase of early intervention services directly or through community centered boards or certified early intervention service brokers.

(2) Community centered boards, certified early intervention service brokers, and service agencies receiving moneys pursuant to section 27-10.5-708 shall comply with all of the provisions of this article and the rules promulgated pursuant to this article.

(3) Community centered boards and certified early intervention service brokers shall obtain or provide early intervention services, subject to available appropriations, including but not limited to:

(a) Service coordination with families of eligible infants and toddlers from birth through two years of age. The purpose of service and support coordination shall be to enable a family to utilize service systems to meet its needs in an effective manner and increase the family's confidence and competence. Service coordination is to be rendered in an interagency context that emphasizes interagency collaboration. A family shall have, to the extent possible, a choice as to who shall perform certain facets of service coordination as established in the family's individualized family service plan.

(b) Coordination of early intervention services with local agencies and other community resources at the local level to avoid duplication and fragmentation of early intervention services. A community centered board shall:

(I) Coordinate with the local interagency effort regarding outreach, identification, screening, multidisciplinary assessment, and eligibility determination for families served by the community centered board who requested the services;

(II) Coordinate with the local family support services program; and

(III) Coordinate with other appropriate state agencies providing programs for infants and toddlers.

(4) The department is authorized to use up to three percent of the amount of the appropriation for early intervention services for training and technical assistance to ensure that the latest developments for early intervention services are rapidly integrated into service provision throughout the state.

**27-10.5-706. Coordinated system of payment for early intervention services - duties of departments.** (1) In order to implement the provisions of this part 7, the department, as lead agency for part C child find, shall be responsible for the following, subject to available appropriations:

(a) Establishing an early intervention state plan for a statewide, comprehensive system of early intervention services in accordance with part C child find;

(b) Establishing an interagency operating agreement between the department and the departments of education, health care policy and financing, and public health and environment regarding the responsibilities of each department to assist in the development and implementation of a statewide, comprehensive system of early intervention services and a coordinated system of payments for early intervention services;

(c) Developing, in cooperation with the department of education, the department of health care policy and financing, the department of public health and environment, the division of insurance in the department of regulatory agencies, private health insurance carriers, and certified early intervention service brokers, a coordinated system of payment of early intervention services using public and private moneys;

(d) Certifying community centered boards or other entities as determined by the department as early intervention service brokers for early intervention services provided pursuant to this part 7; and

(e) Ensuring an appropriate allocation of payment responsibilities for early intervention services among federal, state, local, and private sources, including public medical assistance and private insurance coverage.

(2) Any additional source of moneys that may become available for the payment of early intervention services on or after July 1, 2008, as a result of the development and implementation of a statewide, comprehensive system of early intervention services and a coordinated system of payments for early intervention services shall not replace or reduce any other federal or state moneys available for the payment of early intervention services on or before July 1, 2008.

(3) Nothing in this part 7 shall be construed to inhibit, encumber, or control the use of local moneys, including county grants, revenues from local mill levies, and private grants and contributions, that a community centered board or county government may elect to allocate for the benefit of eligible children.

(4) In developing a coordinated system of payment, the department shall not directly or indirectly create a new entitlement for early intervention services funded from the state general fund. However, this subsection (4) shall not prohibit any adjustments to public medical assistance required by section 25.5-1-124, C.R.S.

**27-10.5-707. Cooperation among state agencies - implementing coordinated payment system - revisions to rules.** (1) The departments of education, health care policy and financing, and public health and environment shall cooperate with the department to implement the provisions of this part 7 and each department shall:

(a) Assign a representative in accordance with part C child find to advise and assist the department in the development and implementation of the early intervention services system;

(b) Participate in the ongoing review of funding practices for early intervention services and develop or revise procedures for a coordinated system of payment for early intervention services;

(c) Use uniform forms and procedures for billing the costs of early intervention services to public medical assistance, as specified in the "Colorado Medical Assistance Act", articles 4 to 6 of title 25.5, C.R.S., or the "Children's Basic Health Plan Act", article 8 of title 25.5, C.R.S., as appropriate, and private health insurance, as specified in part 1 of article 16 of title 10, C.R.S.;

(d) Coordinate revisions to existing rules that are necessary to implement this part 7; and

(e) Perform other tasks and functions necessary for the implementation of this part 7.

(2) The division of insurance in the department of regulatory agencies shall provide assistance to the department related to the requirements and implementation of section 10-16-104 (1.3), C.R.S., and insurance laws and rules related to billing and claims handling.

**27-10.5-708. Certified early intervention service brokers - duties - payment for early intervention services - fees.** (1) For each designated service area in the state, the certified early intervention service broker for the area shall:

(a) Establish a registry of qualified early intervention service providers to provide early intervention services to eligible children in the designated service area. The certified early intervention service broker for a designated service area may provide early intervention services directly or may subcontract the provision of services to other qualified providers on the registry.

(b) Accept and process claims for reimbursement for early intervention services provided under this part 7 by qualified providers;

(c) Negotiate for the payment of early intervention services provided to eligible children in the designated service area by qualified providers, to the extent permissible under federal law; and

(d) Ensure payment to a qualified provider for early intervention services rendered by the qualified provider.

(2) Certified early intervention service brokers shall use procedures and forms determined by the department to document the provision or purchase of early intervention services on behalf of eligible children. Invoices or insurance claims for early intervention services shall be submitted based on the available funding source for each eligible child and the reimbursement rate for the appropriate federal, state, local, or private funding sources, including public medical assistance and private health insurance.

(3) The department shall establish a schedule of fees to be charged by certified early intervention service brokers for providing broker services under this part 7. In developing the fee schedule, the department shall obtain input from certified early intervention service brokers and shall consider the duties of brokers under this part 7, the expenses incurred by brokers, and the relevant market conditions.

(4) Use of a certified early intervention broker is voluntary; except that private health insurance carriers that are included under section 10-16-104 (1.3), C.R.S., are required to make payment in trust under section 27-10.5-709. Nothing in this part 7 prohibits a qualified provider of early intervention services from directly billing the appropriate program of public medical assistance or a participating provider, as defined in section 10-16-102 (46), C.R.S., or from directly billing a private health insurance carrier for services rendered under this part 7 for insurance plans that are not included under section 10-16-104 (1.3), C.R.S.

(5) To the extent requested by the department, certified early intervention service brokers shall participate in ongoing reviews of funding practices for early intervention services and the development or revision of procedures for a coordinated system of payment for early intervention services.

**27-10.5-709. Payment from private health insurance for early intervention services - trust fund.** (1) Private health insurance carriers that are required to make payment of benefits for early intervention services for which coverage is required pursuant to section 10-16-104 (1.3), C.R.S., shall pay benefits to the department in trust for payment to a broker or provider for early intervention services provided to an eligible child. Upon notification from the department that a child is eligible, the child's private health insurance carrier shall have thirty days to make payment to the department.

(2) (a) When a private health insurance carrier makes payments of benefits for an eligible child to the department in trust, those moneys shall be deposited in the early intervention services trust fund, which trust fund is hereby created in the state treasury. Except as provided in paragraph (b) of this subsection (2), the principal of the trust fund shall only be used to pay certified early intervention service brokers or qualified early intervention service providers for early intervention services provided to the eligible child for whom the moneys were paid to the department in trust by the private health insurance carrier. Except as provided in paragraph (b) of this subsection (2), the principal of the trust fund shall not constitute state fiscal year spending for purposes of section 20 of article X of the state constitution, and such moneys shall be deemed custodial funds that are not subject to appropriation by the general assembly.

(b) (I) For the 2008-09 fiscal year and each fiscal year thereafter, the general assembly shall make appropriations to the department from the principal of the early intervention services trust fund for the direct and indirect costs of administering this section. Any moneys appropriated to the department pursuant to this paragraph (b) shall constitute state fiscal year spending for purposes of section 20 of article X of the state constitution.

(II) All interest derived from the deposit and investment of moneys in the early intervention services trust fund shall be credited to the trust fund, may be appropriated to the department in accordance with this paragraph (b), and shall constitute state fiscal year spending for purposes of section 20 of article X of the state constitution.

(c) Within ninety days after the department determines that a child is no longer an eligible child for purposes of section 10-16-104 (1.3), C.R.S., the department shall notify the carrier that the child is no longer eligible and that the carrier is no longer required to provide the coverage required by said section for that child. Any moneys deposited in the trust fund on behalf of an eligible child that are not expended on behalf of the child before the child becomes ineligible shall be returned to the carrier that made the payments in trust for the child.

(3) No later than March 1, 2009, and no later than April 1 each year thereafter, the department shall provide a report to each private health insurance carrier that has made payments of benefits for an eligible child to the department in trust. The report shall specify the total amount of benefits paid to brokers or qualified providers for services provided to the eligible child during the prior calendar year, including the amount paid to each broker or qualified provider and the services provided to the eligible child. The report required by this subsection (3) shall be provided at least annually and more often, as determined by the department and the carrier.

**27-10.5-710. Annual report - cooperation from certified early intervention service brokers and qualified providers.** (1) By November 1, 2008, and by November 1 each year thereafter, the department shall submit an annual report to the general assembly regarding the various funding sources used for early intervention services, the number of eligible children served, the average cost of early intervention services, and any other information the department deems appropriate. The department shall submit the report to the joint budget committee as part of the department's annual budget request. The department shall also submit the report to the health and human services committees and the education committees of the senate and house of representatives, or any successor committees.

(2) The department shall request, and certified early intervention service brokers and qualified early intervention service providers shall provide, information regarding early intervention services that the department needs to prepare the annual report required by this section or other required federal or state reports.

## PART 8

## OUTCOME-BASED SUPPORTED EMPLOYMENT SYSTEM FOR INTEGRATED EMPLOYMENT SERVICES FOR PERSONS WITH DISABILITIES, INCLUDING DEVELOPMENTAL DISABILITIES

**27-10.5-801. Pilot program - creation - goals - implementation - reporting.** (1) (a) There is hereby created a pilot program in the division to implement an outcome-based employment model for persons with developmental disabilities and recommend a payment system for supported employment services in Colorado for persons with developmental disabilities.

(b) The goal of the pilot program shall be to increase the efficiency of statewide employment services for persons with developmental disabilities by connecting funding for employment services to employment outcomes, including but not limited to increased employment opportunities for and long-term success of integrated employment services for persons with developmental disabilities.

(c) The department shall develop the pilot program in consultation with the following individuals and entities:

(I) Community centered boards;

(II) Providers of supported employment services other than community centered boards;

(III) Persons currently receiving supported employment services;

(IV) The division of vocational rehabilitation;

(V) The division for developmental disabilities in the department of human services; and

(VI) Other experts in the field as identified by the department or the participants in this paragraph (c).

(d) On or before March 30, 2009, the department shall implement the pilot program. Prior to implementing the pilot program, the department shall submit a report to the joint budget

committee and to the health and human services committees of the house of representatives and the senate on the specific details of the pilot program and how resources of the department will be directed to implement the pilot program. The pilot program shall end on or before March 30, 2011.

(e) On or before April 30, 2011, the department shall submit a report evaluating the pilot program to the joint budget committee and to the health and human services committees of the house of representatives and the senate, or any successor committees, the governor, and the lieutenant governor. The report shall include any costs or savings that were or are projected to be realized as a result of implementing the pilot program or the proposed payment system for supported employment services for persons with developmental disabilities. The report shall also include a summary of the number of jobs obtained for persons with developmental disabilities and the number of jobs retained by those individuals at three months, six months, and nine months following the initial placement.

(2) The department is authorized to implement recommendations of the pilot program within available appropriations.

(3) As used in this part 8, unless the context otherwise requires, "division" means the division of vocational rehabilitation in the department of human services.

## PART 9

## STATE EMPLOYMENT OF PERSONS WITH DEVELOPMENTAL DISABILITIES

**27-10.5-901. Legislative declaration.** (1) The general assembly hereby finds that:

(a) Persons with developmental disabilities represent a population that has long been underutilized and often denied employment opportunities within state government, partially due to hiring personnel's perceptions and understanding of the operation and requirements of the state personnel system;

(b) Some state agencies are unaware of the avenues that are available within the state personnel system by which state agencies can hire and provide training and support for persons with developmental disabilities; and

(c) Many persons with developmental disabilities, when provided appropriate training and support, can develop sufficient skills and competencies to more than adequately fulfill job expectations in employment positions in state government.

(2) Therefore, it is the intent of the general assembly to create the state employment program for persons with developmental disabilities to encourage and provide incentives for state agencies to give meaningful employment opportunities to persons with developmental disabilities and to improve the state's practices in employing, supervising, and supporting persons with developmental disabilities.

**27-10.5-902. State employment program for persons with disabilities - creation -**

**rules.** (1) There is hereby created within the department the state employment program for persons with developmental disabilities, referred to in this part 9 as the "program". The department shall design and implement the program to coordinate the hiring of interested persons with developmental disabilities into appropriate and meaningful state employment opportunities. The goal of the program is to identify for persons with developmental disabilities permanent and stable employment opportunities that are integrated within and appropriately meet the service goals of state agencies. The department of human services shall collaborate with the department of personnel in designing the program.

(2) (a) On or before July 1, 2008, the executive directors of the department of human services and the department of personnel shall jointly convene a working group to study and recommend how the state's policies and practices in employing, supervising, and supporting persons with developmental disabilities can be improved in order to effectively and successfully implement the program. The executive directors shall include in the working group persons with expertise in implementing the statutes and rules pertaining to the state personnel system, persons with expertise in interpreting and implementing the federal "Americans with Disabilities Act of 1990", 42 U.S.C. sec. 12101 et seq., and persons with experience in employing and placing for employment persons with developmental disabilities.

(b) The working group shall complete its work and make recommendations to the executive directors of the department of human services and the department of personnel by January 1, 2009. The recommendations of the working group may include, but need not be limited to:

(I) Modifications to rules, statutes, or the state constitution to improve the success of persons with developmental disabilities who are employed through the program; and

(II) Identification or clarification of the roles and responsibilities of persons in the department of human services and the department of personnel in implementing the program efficiently and successfully.

(3) (a) If the working group finds that implementation of the program may require statutory or constitutional changes, the department of human services and the department of personnel shall not implement the program until the general assembly has considered and rejected said changes or until after a bill enacting said statutory changes or a referred measure enacting said constitutional changes has become law.

(b) After the conditions specified in paragraph (a) of this subsection (3) are met, or if the working group finds that neither statutory nor constitutional changes are necessary for implementation of the program, the state board of human services and the state personnel board shall promulgate rules in accordance with the "State Administrative Procedure Act", article 4 of title 24, C.R.S., as follows:

(I) The state board of human services shall promulgate rules as necessary for implementation of the program within the department of human services; and

(II) The state personnel board shall promulgate rules pertaining to the state personnel system as necessary for implementation of the program.

(4) Following promulgation of rules pursuant to subsection (3) of this section and in accordance with said rules and the provisions of this section, the department of human services, in collaboration with the department of personnel, shall implement the program. A state agency

that seeks to employ a person with developmental disabilities through the program shall be responsible for hiring and supervision of the person and payment of the person's salary and benefits. The department, through the program, shall provide guidance to the hiring state agency regarding any additional issues that are pertinent to the person's employment.

(5) Following adoption of the rules specified in subsection (3) of this section, the department shall regularly provide information to state agencies to explain and promote the program. Upon full implementation of the program, each state agency is strongly encouraged to participate in the program by identifying meaningful and appropriate employment positions for persons with developmental disabilities and working with the department to hire persons with developmental disabilities for these positions.

PART 10

GENERAL PROVISIONS

**27-10.5-1001. (Repealed)**

## ARTICLE 11

Community Centers - Mentally Retarded
and Handicapped

**27-11-101 to 27-11-106. (Repealed)**

## ARTICLE 12

Charges for Patients

**27-12-101 to 27-12-109. (Repealed)**

**Institutions**

## ARTICLE 13

Colorado Mental Health Institute at Pueblo

**27-13-101 to 27-13-113. (Repealed)**

**ARTICLE 14**

Homes for Mental Defectives

**27-14-101 to 27-14-116. (Repealed)**

**ARTICLE 15**

Colorado Mental Health Institute at Fort Logan

**27-15-101 to 27-15-105. (Repealed)**

**ARTICLE 16**

Western Regional Mental Health Center

**27-16-101 to 27-16-105. (Repealed)**

**CORRECTIONS**

**ARTICLE 20**

Penitentiary

**27-20-101 to 27-20-203. (Repealed)**

## ARTICLE 21

Women's Correctional Institution

**27-21-101 and 27-21-102. (Repealed)**

## ARTICLE 22

Reformatory

**27-22-101 to 27-22-110. (Repealed)**

## ARTICLE 23

Mentally Ill or Retarded Convicts - Transfer

**27-23-101 to 27-23-103. (Repealed)**

## ARTICLE 24

Convict Labor and Goods

**27-24-101 to 27-24-124. (Repealed)**

## ARTICLE 25

Correctional Industries

**27-25-101 to 27-25-203. (Repealed)**

## ARTICLE 26

Jails

**27-26-101 to 27-26-129. (Repealed)**

## ARTICLE 27

Community Correctional Facilities and Programs

**27-27-101 to 27-27-112. (Repealed)**

## ARTICLE 28

Restitution to Victims of Crime

**27-28-101 and 27-28-102. (Repealed)**

## OTHER INSTITUTIONS

## ARTICLE 35

School for the Deaf and the Blind

**27-35-101 to 27-35-116. (Repealed)**

## COLORADO DIAGNOSTIC PROGRAM

## ARTICLE 40

Colorado Diagnostic Program

**27-40-101 to 27-40-107. (Repealed)**

## BEHAVIORAL HEALTH

## ARTICLE 60

General Provisions

**27-60-101. Mental health crisis response system - legislative declaration - report by department.** (1) (a) The general assembly hereby finds and declares that:

(I) There are people in Colorado communities who are experiencing mental health or substance abuse crises and need professional crisis care or urgent psychiatric care from skilled mental health clinicians and medical professionals who excel at providing compassionate crisis intervention and stabilization;

(II) Mental health or substance abuse crisis can happen any hour of the day and any day of the week;

(III) Persons in crisis frequently come in contact with community first responders who are often unable to provide necessary mental health interventions or who must transport these persons in crisis to emergency rooms for services, or, in cases where a crime is alleged, to jail;

(IV) Colorado ranks fiftieth in the nation in the number of inpatient psychiatric beds;

(V) Fewer than one-half of the persons who are in crisis and are taken to an emergency room are admitted for inpatient hospitalization, meaning that thousands of people each year return to community streets with little, if any, mental health or substance abuse crisis intervention or treatment; and

(VI) Significant time and resources are required of community first responders in addressing persons in mental health or substance abuse crisis and, in many cases, this community response is neither timely nor safe for the person in crisis nor cost-efficient for the state.

(b) The general assembly therefore finds that:

(I) A coordinated crisis response system provides for early intervention and effective treatment of persons in mental health or substance abuse crisis;

(II) A coordinated crisis response system should involve first responders and include information technology systems to integrate available crisis responses;

(III) A coordinated crisis response system should be available in all communities statewide; and

(IV) A coordinated crisis response system may include community-based crisis centers where persons in mental health or substance abuse crisis may be stabilized and receive short-term treatment.

(2) (a) The department of human services shall review the current behavioral health crisis response in Colorado and shall formulate a plan to address the lack of coordinated crisis response in the state. The plan shall include an analysis of the best use of existing resources, including but not limited to managed service organizations, behavioral health organizations, mental health centers, crisis intervention trained officers, metro crisis services, hospitals, and other entities impacting behavioral health crisis response. The department of human services shall complete the review, formulate the plan, and prepare the report required in paragraph (b) of this subsection (2) within existing appropriations and shall design the plan to be implemented within existing appropriations.

(b) On or before January 30, 2013, the department of human services shall present to a joint meeting of the health and human services committees of the house of representatives and the senate, or any successor committees, a report concerning coordinated behavioral health crisis response in Colorado. The report, at a minimum, shall include the plan prepared pursuant to paragraph (a) of this subsection (2).

**27-60-102. Civil commitment statute review task force - legislative declaration-creation - duties - repeal.** (1) There is hereby created the civil commitment statute review task force, referred to in this section as the "task force", which shall meet during the interim after the first regular session of the sixty-ninth general assembly.

(2) The task force shall study and prepare recommendations concerning the implementation of the consolidation of the mental health, alcohol, and substance use disorder

statutes related to civil commitments. At a minimum, the task force shall study and make specific recommendations on the following issues:

(a) The method by which the mental health, alcohol, and substance use disorder statutes related to civil commitment can be consolidated, including potential changes to statutory language and the promulgation of rules, if necessary;

(b) The effect on detoxification facilities and emergency holds by the consolidation of the mental health, alcohol, and substance use disorder statutes related to civil commitment;

(c) Involuntary commitment for treatment;

(d) Alignment of the civil commitment statutes with the statewide behavioral health crisis services delivery system;

(e) The need to clarify and codify definitions in the behavioral health statutes, including but not limited to "advanced directives for persons with behavioral health illnesses", and, as they relate to substance use disorders, the terms "danger to self or others"; and "gravely disabled";

(f) The length of emergency and long-term commitments;

(g) Patient rights and advocacy resources; and

(h) Any other issues the task force deems relevant.

(3) The task force shall study the definition of "danger to self or others" as set forth in section 27-65-102 (4.5) and shall consider the civil liberties and public safety concerns of that definition. Upon a majority of the task force members voting to ratify the definition set forth in section 27-65-102 (4.5), the task force shall submit a letter stating as such to the executive director and the revisor of statutes no later than November 1, 2013.

(4) (a) The task force will consist of the following thirty members, to be appointed by the executive director of the department of human services or his or her designee, with the exception of the legislative appointees:

(I) One member who represents a statewide organization of social workers;

(II) One member who represents a statewide organization of licensed psychiatrists;

(III) One member who represents a statewide organization of physicians;

(IV) One member who represents a statewide organization of substance use disorders professionals;

(V) One member who represents a statewide association of community behavioral health providers;

(VI) One member who represents a statewide organization of hospitals;

(VII) One member who represents a community substance use disorder provider;

(VIII) One member who represents a statewide organization of persons who provide legal advice to at-risk adults;

(IX) Two members who represent an association with experience in civil rights;

(X) Two members who represent statewide organizations that advocate on behalf of persons with behavioral health disorders;

(XI) One member who advocates on behalf of persons with behavioral health disorders but does not represent a statewide organization;

(XII) One member who represents an organization that advocates on behalf of children and adolescents;

(XIII) One member who represents an organization that advocates on behalf of older adults;

(XIV) One member who represents an organization that advocates on behalf of persons with physical disabilities;

(XV) Two members who represent statewide organizations of law enforcement or peace officers, one member being a sheriff and one member being a police chief;

(XVI) One member who represents city or county attorneys;

(XVII) One member who represents an entity that provides medical malpractice insurance;

(XVIII) One member who represents a statewide organization of counties;

(XIX) Two members who have used the system in the past two to five years;

(XX) One member who represents a statewide organization of licensed psychologists;

(XXI) One member who is an advanced practice nurse with significant experience in the care and treatment of persons with mental health or substance use issues;

(XXII) Four members from the general assembly, two appointed by the speaker of the house of representatives and two appointed by the president of the senate; the appointees from each chamber must be of different political parties; and

(XXIII) One member who is a staff person with the department of human services.

(b) All appointments to the task force must be made on or before June 15, 2013.

(c) At the time of appointment, the executive director of the department of human services, or his or her designee, shall designate two members of the task force to serve as co-chairs of the task force.

(d) The legislative members of the committee shall be compensated for attendance at meetings of the committee and shall receive reimbursement for actual and necessary expenses incurred in the performance of their duties as members of the committee, as provided in section 2-2-307, C.R.S. The total amount available for reimbursement and compensation pursuant to this paragraph (d) shall not exceed five thousand dollars.

(5) The task force shall submit a written report of its recommendations to the executive director and to the health and human services committee of the senate and public health care and human services committee of the house of representatives, or any successor committees, on or before November 1, 2013.

(6) (a) The first meeting of the task force must occur no later than July 15, 2013, and thereafter as necessary.

(b) Meetings of the task force shall be public meetings.

(7) The task force may solicit and accept reports and public testimony and may request other sources to provide testimony, written comments, and other relevant data to the task force.

(8) Members of the task force shall serve without compensation and shall not be entitled to reimbursement for expenses.

(9) The legislative council staff and the office of legislative legal services shall not provide staff support to the task force.

(10) This section is repealed, effective November 1, 2014.

**27-60-103. Behavioral health crisis response system - services - request for proposals - criteria - reporting - rules - definitions.** (1) (a) On or before September 1, 2013, the state department shall issue a statewide request for proposals to entities with the capacity to create a coordinated and seamless behavioral health crisis response system to provide crisis intervention services, as defined in subsection (7) of this section, for communities throughout the state. The state department shall collaborate with the behavioral health transformation council, created in section 27-61-102, to ensure that services resulting from the request for proposals are aligned throughout the system, integrated, and comprehensive. Separate proposals may be solicited and accepted for each of the five components listed in paragraph (b) of this subsection (1). The behavioral health crisis system created through this request for proposals process must be based on the following principles:

(I) Cultural competence;

(II) Strong community relationships;

(III) The use of peer support;

(IV) The use of evidence-based practices;

(V) Building on existing foundations with an eye toward innovation;

(VI) Utilization of an integrated system of care; and

(VII) Outreach to students through school-based clinics.

(b) The components of the behavioral health crisis response system created through this request for proposal process must reflect a continuum of care from crisis response through stabilization and safe return to the community, with adequate support for transitions to each stage. Specific components include:

(I) A twenty-four-hour telephone crisis service that is staffed by skilled professionals who are capable of assessing child, adolescent, and adult crisis situations and making the appropriate referrals;

(II) Walk-in crisis services and crisis stabilization units with the capacity for immediate clinical intervention, triage, and stabilization. The walk-in crisis services and crisis stabilization units must employ an integrated health model based on evidence-based practices that consider an individual's physical and emotional health, are a part of a continuum of care, and are linked to mobile crisis services and crisis respite services.

(III) Mobile crisis services and units that are linked to the walk-in crisis services and crisis respite services and that have the ability to initiate a response in a timely fashion to a behavioral health crisis;

(IV) Residential and respite crisis services that are linked to the walk-in crisis services and crisis respite services and that include a range of short-term crisis residential services, including but not limited to community living arrangements; and

(V) A public information campaign.

(2) The state department shall collaborate with the committee of interested stakeholders established in subsection (3) of this section to develop the request for proposals, including eligibility and award criteria. Priority may be given to entities that have demonstrated partnerships with Colorado-based resources. Proposals will be evaluated on, at a minimum, an applicant's ability, relative to the specific component involved, to:

(a) Demonstrate innovation based on evidence-based practices that show evidence of

collaboration with existing systems of care to build on current strengths and maximize resources;

(b) Coordinate closely with community mental health organizations that provide services regardless of the source of payment, such as behavioral health organizations, community mental health centers, regional care collaborative organizations, substance use treatment providers, and managed service organizations;

(c) Serve individuals regardless of their ability to pay;

(d) Be part of a continuum of care;

(e) Utilize peer supports;

(f) Include key community participants;

(g) Demonstrate a capacity to meet the demand for services;

(h) Understand and provide services that are specialized for the unique needs of child and adolescent patients; and

(i) Reflect an understanding of the different response mechanisms utilized between mental health and substance use disorder crises.

(3) The state department shall establish a committee of interested stakeholders that will be responsible for reviewing the proposals and awarding contracts pursuant to this section. Representations from the state department of health care policy and financing must be included in the committee of interested stakeholders. A stakeholder participating in the committee must not have a financial or other conflict of interest that would prevent him or her from impartially reviewing proposals.

(4) (a) The department shall issue the initial request for proposals on or before September 1, 2013, subject to available appropriations. Pursuant to the state procurement code, articles 101 and 102 of title 24, C.R.S., the department shall make awards on or before January 1, 2014. If additional moneys are appropriated, the department may issue additional requests for proposals consistent with this section and the state procurement code, articles 101 and 102 of title 24, C.R.S.

(b) If the full appropriation by the general assembly for the implementation of this section is not dispersed as specified in paragraph (a) of this subsection (4), the committee shall accept and review proposals and award contracts as the proposals are received and not require an application be held until a subsequent request for proposals.

(5) If necessary, the state board may promulgate rules to implement the provisions of this section or the services to be supplied pursuant to this section.

(6) Beginning in January 2014, and every January thereafter, the state department shall report progress on the implementation of a comprehensive statewide behavioral health crisis response system as part of its "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act" hearing required by section 2-7-203, C.R.S.

(7) As used in this section, unless the context otherwise requires:

(a) "Crisis intervention services" means an array of integrated services that are available twenty-four hours a day, seven days a week, to respond to and assist individuals who are in a behavioral health emergency.

(b) "State board" means the state board of human services created and authorized pursuant to section 26-1-107, C.R.S.

(c) "State department" means the state department of human services created pursuant to

section 26-1-105, C.R.S.

## ARTICLE 61

Behavioral Health Transformation Council

**27-61-101. Legislative declaration.** (1) The general assembly hereby finds, determines, and declares that:

(a) There is an urgent need to address the economic, social, and personal costs to the state of Colorado and its citizens of untreated mental health and substance use disorders;

(b) Behavioral health disorders, including mental health and substance use disorders, are treatable conditions not unlike other chronic health issues that require a combination of behavioral change and medication or other treatment. When individuals receive appropriate prevention, early intervention, treatment, and recovery services, they can live full, productive lives.

(c) Untreated behavioral health disorders place individuals at high risk for poor health outcomes and significantly impact virtually all aspects of local and state government by reducing family stability, student achievement, workforce productivity, and public safety;

(d) Currently, there is no single behavioral health care system in Colorado. Instead, consumers of all ages with behavioral health disorders receive services from a number of different systems, including the health care, behavioral health care, child welfare, juvenile and criminal justice, education, and higher education systems.

(e) Adult and youth consumers and their families need quality behavioral health care that is individualized and coordinated to meet their changing needs through a comprehensive and integrated system;

(f) Timely access through multiple points of entry to a full continuum of culturally responsive services, including prevention, early intervention, crisis response, treatment, and recovery, is necessary for an effective integrated system;

(g) Evidence-based and promising practices result in favorable outcomes for Colorado's adult and youth consumers, their families, and the communities in which they live;

(h) Lack of public awareness regarding behavioral health issues creates a need for public education that emphasizes the importance of behavioral health as part of overall health and wellness and creates the desire to invest in and support an integrated behavioral health system in Colorado;

(i) To reduce the economic and social costs of untreated behavioral health disorders, Colorado needs a systemic transformation of the behavioral health system through which transformation the state strives to achieve critical goals to address mental health and substance use disorders; and

(j) The overarching goal of this behavioral health system transformation shall be to make the behavioral health system's administrative processes, service delivery, and funding more effective and efficient to improve outcomes for Colorado citizens.

(2) The general assembly further finds and declares that, to improve the quality of life for the citizens of Colorado, strengthen the economy, and continue the responsible management of the state's resources, the leadership of the three branches of Colorado's state government and the stakeholders most affected by mental health and substance use disorders must collaborate to build on the progress of past efforts and to sustain a focus on the improvement of behavioral health services.

**27-61-102. Behavioral health transformation council - creation - duties - sunset review - repeal.** (1) The governor shall designate a group of his or her cabinet members including, but not limited to, the commissioner of education, the executive director or chief medical officer of the department of public health and environment, and the executive directors of the departments of corrections, health care policy and financing, human services, labor and employment, local affairs, and public safety to oversee the systemic transformation of the behavioral health system.

(2) (a) On or before August 1, 2010, the governor shall create a behavioral health transformation council, referred to in this section as the "council", to advise his or her cabinet on transforming the behavioral health system in Colorado. On or before August 1, 2010, the governor shall designate an executive branch department to serve as the lead department to facilitate the council's work. In consultation with the governor, the lead agency shall determine the appropriate membership, tenure, and operating protocols of the council.

(b) The council membership shall include the following:

(I) Representatives from executive branch agencies that fund or serve clients who use the behavioral health system, including but not limited to the departments of corrections, education, health care policy and financing, human services, labor and employment, local affairs, public health and environment, and public safety;

(II) At least two representatives from the judicial branch, appointed by the chief justice of the Colorado supreme court;

(III) Two representatives from the house of representatives, one appointed by the speaker of the house of representatives and one appointed by the minority leader, with preference given to members familiar with recent audit issues regarding behavioral health services;

(IV) Two representatives from the senate, one appointed by the president of the senate and one appointed by the minority leader;

(V) One representative from the governor's office of information technology; and

(VI) At least ten representatives, recommended by the lead agency in consultation with the council, from any group or committee that actively participated in the behavioral health transformation grant in 2009-2010, and which shall include consumers or entities representing consumers of behavioral health services.

(c) On or before January 30, 2011, and on or before January 30 each year thereafter, the

lead agency shall brief the health and human services committees of the house of representatives and the senate, or any successor committees, and the state court administrator's office on the activities and progress of the council toward achieving the goals of a transformation of Colorado's behavioral health system.

(d) The members of the council appointed pursuant to subparagraphs (III) and (IV) of paragraph (b) of this subsection (2) are entitled to receive compensation and reimbursement of expenses as provided in section 2-2-326, C.R.S.

(3) The council shall have the following duties and functions:

(a) To develop a strategic prioritization, planning, and implementation process to advise the governor's cabinet on transforming Colorado's behavioral health system. The council shall work toward the following goals associated with a comprehensive, efficient, effective, and integrated behavioral health system:

(I) Developing shared outcomes across key systems to enable joint accountability, improve services, and increase recovery, self-sufficiency, and economic opportunity;

(II) Aligning service areas across systems to promote equitable and timely access to a full continuum of services throughout Colorado, to the extent feasible;

(III) Establishing joint monitoring across systems to ensure accountability for common outcomes and to reduce the administrative burden associated with service provision;

(IV) Creating integrated behavioral health policies and rules to align with integrated service delivery;

(V) Financing reform to maximize and efficiently utilize funds;

(VI) Utilizing electronic health records or other technology, shared screening tools, assessments, and evaluations in compliance with federal and state confidentiality and privacy laws;

(VII) Adopting consistent cross-system standards for cultural congruence and for youth, adult, and family involvement;

(VIII) Promoting and utilizing evidence-based and promising practices to the extent possible;

(IX) Creating workforce-development strategies required for an integrated behavioral health system; and

(X) Developing a comprehensive behavioral health service system that includes services to persons with mental illness, addictions, disabilities, and co-occurring issues;

(b) To make recommendations to the cabinet that encourage and promote collaboration, partnerships, and innovation across governmental agencies and other agencies in the budgeting, planning, administration, and provision of behavioral health services associated with the goals above; and

(c) To coordinate and consolidate the council's efforts with the efforts of other groups that are working on behavioral health issues to increase the effectiveness and efficiency of these efforts.

(4) This section is repealed, effective July 1, 2020. Prior to such repeal, the council shall be reviewed as provided for in section 2-3-1203, C.R.S.

**MENTAL HEALTH**

## ARTICLE 65

Care and Treatment of Persons
with Mental Illness

**27-65-101. Legislative declaration.** (1) The general assembly hereby declares that, subject to available appropriations, the purposes of this article are:

(a) To secure for each person who may have a mental illness such care and treatment as will be suited to the needs of the person and to insure that such care and treatment are skillfully and humanely administered with full respect for the person's dignity and personal integrity;

(b) To deprive a person of his or her liberty for purposes of treatment or care only when less restrictive alternatives are unavailable and only when his or her safety or the safety of others is endangered;

(c) To provide the fullest possible measure of privacy, dignity, and other rights to persons undergoing care and treatment for mental illness;

(d) To encourage the use of voluntary rather than coercive measures to provide treatment and care for mental illness and to provide such treatment and care in the least restrictive setting;

(e) To provide appropriate information to family members concerning the location and fact of admission of a person with a mental illness to inpatient or residential care and treatment;

(f) To encourage the appropriate participation of family members in the care and treatment of a person with a mental illness and, when appropriate, to provide information to family members in order to facilitate such participation; and

(g) To facilitate the recovery and resiliency of each person who receives care and treatment under this article.

(2) To carry out these purposes, subject to available appropriations, the provisions of this article shall be liberally construed.

**27-65-102. Definitions.** As used in this article, unless the context otherwise requires:

(1) "Acute treatment unit" means a facility or a distinct part of a facility for short-term psychiatric care, which may include substance abuse treatment, that provides a total, twenty-four-hour, therapeutically planned and professionally staffed environment for persons who do not require inpatient hospitalization but need more intense and individual services than are available on an outpatient basis, such as crisis management and stabilization services.

(2) "Certified peace officer" means any certified peace officer as described in section 16-2.5-102, C.R.S.

(3) "Court" means any district court of the state of Colorado and the probate court in the

city and county of Denver.

(4) "Court-ordered evaluation" means an evaluation ordered by a court pursuant to section 27-65-106.

(4.5) "Danger to self or others" means:

(a) With respect to an individual, that the individual poses a substantial risk of physical harm to himself or herself as manifested by evidence of recent threats of or attempts at suicide or serious bodily harm to himself or herself; or

(b) With respect to other persons, that the individual poses a substantial risk of physical harm to another person or persons, as manifested by evidence of recent homicidal or other violent behavior by the person in question, or by evidence that others are placed in reasonable fear of violent behavior and serious physical harm to them, as evidenced by a recent overt act, attempt, or threat to do serious physical harm by the person in question.

(5) "Department" means the department of human services.

(6) "Executive director" means the executive director of the department of human services.

(7) "Facility" means a public hospital or a licensed private hospital, clinic, community mental health center or clinic, acute treatment unit, institution, sanitarium, or residential child care facility that provides treatment for a person with a mental illness.

(8) "Family member" means a spouse, parent, adult child, or adult sibling of a person with a mental illness.

(9) "Gravely disabled" means a condition in which a person, as a result of a mental health disorder, is incapable of making informed decisions about or providing for his or her essential needs without significant supervision and assistance from other people. As a result of being incapable of making these informed decisions, a person who is gravely disabled is at risk of substantial bodily harm, dangerous worsening of any concomitant serious physical illness, significant psychiatric deterioration, or mismanagement of his or her essential needs that could result in substantial bodily harm. A person of any age may be "gravely disabled", but such term does not include a person whose decision-making capabilities are limited solely by his or her developmental disability.

(10) "Hospitalization" means twenty-four-hour out-of-home placement for mental health treatment in a facility.

(11) "Independent professional person" means a professional person, as defined in subsection (17) of this section, who evaluates a minor's condition as an independent decision-maker and whose recommendations are based on the standard of what is in the best interest of the minor. The professional person may be associated with the admitting mental health facility if he or she is free to independently evaluate the minor's condition and need for treatment and has the authority to refuse admission to any minor who does not satisfy the statutory standards specified in section 27-65-103 (3).

(12) "Minor" means a person under eighteen years of age; except that the term does not include a person who is fifteen years of age or older who is living separately and apart from his or her parent or legal guardian and is managing his or her financial affairs, regardless of his or her source of income, or who is married and living separately and apart from his or her parent or legal guardian.

(13) "Patient representative" means a person designated by a mental health facility to process patient complaints or grievances or to represent patients who are minors pursuant to section 27-65-103 (5).

(14) "Person with a mental illness" means a person with one or more substantial disorders of the cognitive, volitional, or emotional processes that grossly impairs judgment or capacity to recognize reality or to control behavior. Developmental disability is insufficient to either justify or exclude a finding of mental illness within the provisions of this article.

(15) "Petitioner" means any person who files any petition in any proceeding in the interest of any person who allegedly has a mental illness or is allegedly gravely disabled.

(16) "Physician" means a person licensed to practice medicine in this state.

(17) "Professional person" means a person licensed to practice medicine in this state, a psychologist certified to practice in this state, or a person licensed and in good standing to practice medicine in another state or a psychologist certified to practice and in good standing in another state who is providing medical or clinical services at a treatment facility in this state that is operated by the armed forces of the United States, the United States public health service, or the United States department of veterans affairs.

(18) "Residential child care facility" means a facility licensed by the state department of human services pursuant to article 6 of title 26, C.R.S., to provide group care and treatment for children as such facility is defined in section 26-6-102 (8), C.R.S. A residential child care facility may be eligible for designation by the executive director of the department of human services pursuant to this article.

(19) "Respondent" means either a person alleged in a petition filed pursuant to this article to have a mental illness or be gravely disabled or a person certified pursuant to the provisions of this article.

(20) "Screening" means a review of all petitions, to consist of an interview with the petitioner and, whenever possible, the respondent, an assessment of the problem, an explanation of the petition to the respondent, and a determination of whether the respondent needs and, if so, will accept, on a voluntary basis, comprehensive evaluation, treatment, referral, and other appropriate services, either on an inpatient or an outpatient basis.

**27-65-103. Voluntary applications for mental health services.** (1) Nothing in this article shall be construed in any way as limiting the right of any person to make voluntary application at any time to any public or private agency or professional person for mental health services, either by direct application in person or by referral from any other public or private agency or professional person. Subject to section 15-14-316 (4), C.R.S., a ward, as defined in section 15-14-102 (15), C.R.S., may be admitted to hospital or institutional care and treatment for mental illness by consent of the guardian for so long as the ward agrees to such care and treatment. Within ten days of any such admission of the ward for such hospital or institutional care and treatment, the guardian shall notify in writing the court that appointed the guardian of the admission.

(2) Notwithstanding any other provision of law, a minor who is fifteen years of age or older, whether with or without the consent of a parent or legal guardian, may consent to receive

mental health services to be rendered by a facility or a professional person. Such consent shall not be subject to disaffirmance because of minority. The professional person rendering mental health services to a minor may, with or without the consent of the minor, advise the parent or legal guardian of the minor of the services given or needed.

(3) A minor who is fifteen years of age or older or a parent or legal guardian of a minor on the minor's behalf may make voluntary application for hospitalization. Application for hospitalization on behalf of a minor who is under fifteen years of age and who is a ward of the department of human services shall not be made unless a guardian ad litem has been appointed for the minor or a petition for the same has been filed with the court by the agency having custody of the minor; except that such an application for hospitalization may be made under emergency circumstances requiring immediate hospitalization, in which case the agency shall file a petition for appointment of a guardian ad litem within seventy-two hours after application for admission is made, and the court shall appoint a guardian ad litem forthwith. Procedures for hospitalization of such minor may proceed pursuant to this section once a petition for appointment of a guardian ad litem has been filed, if necessary. Whenever such application for hospitalization is made, an independent professional person shall interview the minor and conduct a careful investigation into the minor's background, using all available sources, including, but not limited to, the parents or legal guardian and the school and any other social agencies. Prior to admitting a minor for hospitalization, the independent professional person shall make the following findings:

(a) That the minor has a mental illness and is in need of hospitalization;

(b) That a less restrictive treatment alternative is inappropriate or unavailable; and

(c) That hospitalization is likely to be beneficial.

(4) An interview and investigation by an independent professional person shall not be required for a minor who is fifteen years of age or older and who, upon the recommendation of his or her treating professional person, seeks voluntary hospitalization with the consent of his or her parent or legal guardian. In order to assure that the minor's consent to such hospitalization is voluntary, the minor shall be advised, at or before the time of admission, of his or her right to refuse to sign the admission consent form and his or her right to revoke his or her consent at a later date. If a minor admitted pursuant to this subsection (4) subsequently revokes his or her consent after admission, a review of his or her need for hospitalization pursuant to subsection (5) of this section shall be initiated immediately.

(5) (a) The need for continuing hospitalization of all voluntary patients who are minors shall be formally reviewed at least every two months. Review pursuant to this subsection (5) shall fulfill the requirement specified in section 19-1-115 (8), C.R.S., when the minor is fifteen years of age or older and consenting to hospitalization.

(b) The review shall be conducted by an independent professional person who is not a member of the minor's treating team; or, if the minor, his or her physician, and the minor's parent or guardian do not object to the need for continued hospitalization, the review required pursuant to this subsection (5) may be conducted internally by the hospital staff.

(c) The independent professional person shall determine whether the minor continues to meet the criteria specified in subsection (3) of this section and whether continued hospitalization

is appropriate and shall at least conduct an investigation pursuant to subsection (3) of this section.

(d) Ten days prior to the review, the patient representative at the mental health facility shall notify the minor of the date of the review and shall assist the minor in articulating to the independent professional person his or her wishes concerning continued hospitalization.

(e) Nothing in this section shall be construed to limit a minor's right to seek release from the facility pursuant to any other provisions under the law.

(6) Every six months the review required pursuant to subsection (5) of this section shall be conducted by an independent professional person who is not a member of the minor's treating team and who has not previously reviewed the child pursuant to subsection (5) of this section.

(7) (a) When a minor does not consent to or objects to continued hospitalization, the need for such continued hospitalization shall, within ten days, be reviewed pursuant to subsection (5) of this section by an independent professional person who is not a member of the minor's treating team and who has not previously reviewed the child pursuant to this subsection (7). The minor shall be informed of the results of such review within three days of completion of such review. If the conclusion reached by such professional person is that the minor no longer meets the standards for hospitalization specified in subsection (3) of this section, the minor shall be discharged.

(b) If, twenty-four hours after being informed of the results of the review specified in paragraph (a) of this subsection (7), a minor continues to affirm the objection to hospitalization, the minor shall be advised by the director of the facility or his or her duly appointed representative that the minor has the right to retain and consult with an attorney at any time and that the director or his or her duly appointed representative shall file, within three days after the request of the minor, a statement requesting an attorney for the minor or, if the minor is under fifteen years of age, a guardian ad litem. The minor, his or her attorney, if any, and his or her parent, legal guardian, or guardian ad litem, if any, shall also be given written notice that a hearing upon the recommendation for continued hospitalization may be had before the court or a jury upon written request directed to the court pursuant to paragraph (d) of this subsection (7).

(c) Whenever the statement requesting an attorney is filed with the court, the court shall ascertain whether the minor has retained counsel, and, if he or she has not, the court shall, within three days, appoint an attorney to represent the minor, or if the minor is under fifteen years of age, a guardian ad litem. Upon receipt of a petition filed by the guardian ad litem, the court shall appoint an attorney to represent the minor under fifteen years of age.

(d) The minor or his or her attorney or guardian ad litem may, at any time after the minor has continued to affirm his or her objection to hospitalization pursuant to paragraph (b) of this subsection (7), file a written request that the recommendation for continued hospitalization be reviewed by the court or that the treatment be on an outpatient basis. If review is requested, the court shall hear the matter within ten days after the request, and the court shall give notice to the minor, his or her attorney, if any, his or her parents or legal guardian, his or her guardian ad litem, if any, the independent professional person, and the minor's treating team of the time and place thereof. The hearing shall be held in accordance with section 27-65-111; except that the court or jury shall determine that the minor is in need of care and treatment if the court or jury makes the following findings: That the minor has a mental illness and is in need of

hospitalization; that a less restrictive treatment alternative is inappropriate or unavailable; and that hospitalization is likely to be beneficial. At the conclusion of the hearing, the court may enter an order confirming the recommendation for continued hospitalization, discharge the minor, or enter any other appropriate order.

(e) For purposes of this subsection (7), "objects to hospitalization" means that a minor, with the necessary assistance of hospital staff, has written his or her objections to continued hospitalization and has been given an opportunity to affirm or disaffirm such objections forty-eight hours after the objections are first written.

(f) A minor may not again object to hospitalization pursuant to this subsection (7) until ninety days after conclusion of proceedings pursuant to this subsection (7).

(g) In addition to the rights specified under section 27-65-117 for persons receiving evaluation, care, or treatment, a written notice specifying the rights of minor children under this section shall be given to each minor upon admission to hospitalization.

(8) A minor who no longer meets the standards for hospitalization specified in subsection (3) of this section shall be discharged.

(9) For the purpose of this article, the treatment by prayer in the practice of the religion of any church which teaches reliance on spiritual means alone for healing shall be considered a form of treatment.

(10) The medical and legal status of all voluntary patients receiving treatment for mental illness in inpatient or custodial facilities shall be reviewed at least once every six months.

(11) Voluntary patients shall be afforded all the rights and privileges customarily granted by hospitals to their patients.

(12) If at any time during a seventy-two-hour evaluation of a person who is confined involuntarily the facility staff requests the person to sign in voluntarily and he or she elects to do so, the following advisement shall be given orally and in writing and an appropriate notation shall be made in his or her medical record by the professional person or his or her designated agent:

**NOTICE**

> The decision to sign in voluntarily should be made by you alone and should be free from any force or pressure implied or otherwise. If you do not feel that you are able to make a truly voluntary decision, you may continue to be held at the hospital involuntarily. As an involuntary patient, you will have the right to protest your confinement and request a hearing before a judge.

**27-65-104. Rights of respondents.** Unless specifically stated in an order by the court, a respondent shall not forfeit any legal right or suffer legal disability by reason of the provisions of this article.

**27-65-105. Emergency procedure.** (1) Emergency procedure may be invoked under either one of the following two conditions:

(a) (I) When any person appears to have a mental illness and, as a result of such mental illness, appears to be an imminent danger to others or to himself or herself or appears to be gravely disabled, then a person specified in subparagraph (II) of this paragraph (a), each of whom is referred to in this section as the "intervening professional", upon probable cause and with such assistance as may be required, may take the person into custody, or cause the person to be taken into custody, and placed in a facility designated or approved by the executive director for a seventy-two-hour treatment and evaluation.

(II) The following persons may effect a seventy-two-hour hold as provided in subparagraph (I) of this paragraph (a):

(A) A certified peace officer;

(B) A professional person;

(C) A registered professional nurse as defined in section 12-38-103 (11), C.R.S., who by reason of postgraduate education and additional nursing preparation has gained knowledge, judgment, and skill in psychiatric or mental health nursing;

(D) A licensed marriage and family therapist, licensed professional counselor, or addiction counselor licensed under part 5, 6, or 8 of article 43 of title 12, C.R.S., who by reason of postgraduate education and additional preparation has gained knowledge, judgment, and skill in psychiatric or clinical mental health therapy, forensic psychotherapy, or the evaluation of mental disorders; or

(E) A licensed clinical social worker licensed under the provisions of part 4 of article 43 of title 12, C.R.S.

(b) Upon an affidavit sworn to or affirmed before a judge that relates sufficient facts to establish that a person appears to have a mental illness and, as a result of the mental illness, appears to be an imminent danger to others or to himself or herself or appears to be gravely disabled, the court may order the person described in the affidavit to be taken into custody and placed in a facility designated or approved by the executive director for a seventy-two-hour treatment and evaluation. Whenever in this article a facility is to be designated or approved by the executive director, hospitals, if available, shall be approved or designated in each county before other facilities are approved or designated. Whenever in this article a facility is to be designated or approved by the executive director as a facility for a stated purpose and the facility to be designated or approved is a private facility, the consent of the private facility to the enforcement of standards set by the executive director shall be a prerequisite to the designation or approval.

(2) (a) When a person is taken into custody pursuant to subsection (1) of this section, such person shall not be detained in a jail, lockup, or other place used for the confinement of persons charged with or convicted of penal offenses; except that such place may be used if no other suitable place of confinement for treatment and evaluation is readily available. In such situation the person shall be detained separately from those persons charged with or convicted of penal offenses and shall be held for a period not to exceed twenty-four hours, excluding

Saturdays, Sundays, and holidays, after which time he or she shall be transferred to a facility designated or approved by the executive director for a seventy-two-hour treatment and evaluation. If the person being detained is a juvenile, as defined in section 19-1-103 (68), C.R.S., the juvenile shall be placed in a setting that is nonsecure and physically segregated by sight and sound from the adult offenders. When a person is taken into custody and confined pursuant to this subsection (2), such person shall be examined at least every twelve hours by a certified peace officer, nurse, or physician or by an appropriate staff professional of the nearest designated or approved mental health treatment facility to determine if the person is receiving appropriate care consistent with his or her mental condition.

(b) A sheriff or police chief who violates the provisions of paragraph (a) of this subsection (2), related to detaining juveniles may be subject to a civil fine of no more than one thousand dollars. The decision to fine shall be based on prior violations of the provisions of paragraph (a) of this subsection (2) by the sheriff or police chief and the willingness of the sheriff or police chief to address the violations in order to comply with paragraph (a) of this subsection (2).

(3) Such facility shall require an application in writing, stating the circumstances under which the person's condition was called to the attention of the intervening professional and further stating sufficient facts, obtained from the personal observations of the intervening professional or obtained from others whom he or she reasonably believes to be reliable, to establish that the person has a mental illness and, as a result of the mental illness, is an imminent danger to others or to himself or herself or is gravely disabled. The application shall indicate when the person was taken into custody and who brought the person's condition to the attention of the intervening professional. A copy of the application shall be furnished to the person being evaluated, and the application shall be retained in accordance with the provisions of section 27-65-121 (4).

(4) If the seventy-two-hour treatment and evaluation facility admits the person, it may detain him or her for evaluation and treatment for a period not to exceed seventy-two hours, excluding Saturdays, Sundays, and holidays if evaluation and treatment services are not available on those days. For the purposes of this subsection (4), evaluation and treatment services are not deemed to be available merely because a professional person is on call during weekends or holidays. If, in the opinion of the professional person in charge of the evaluation, the person can be properly cared for without being detained, he or she shall be provided services on a voluntary basis.

(5) Each person admitted to a seventy-two-hour treatment and evaluation facility under the provisions of this article shall receive an evaluation as soon as possible after he or she is admitted and shall receive such treatment and care as his or her condition requires for the full period that he or she is held. The person shall be released before seventy-two hours have elapsed if, in the opinion of the professional person in charge of the evaluation, the person no longer requires evaluation or treatment. Persons who have been detained for seventy-two-hour evaluation and treatment shall be released, referred for further care and treatment on a voluntary basis, or certified for treatment pursuant to section 27-65-107.

**27-65-106. Court-ordered evaluation for persons with mental illness.** (1) Any person alleged to have a mental illness and, as a result of the mental illness, to be a danger to others or to himself or herself or to be gravely disabled may be given an evaluation of his or her condition under a court order pursuant to this section.

(2) Any individual may petition the court in the county in which the respondent resides or is physically present alleging that there is a person who appears to have a mental illness and, as a result of the mental illness, appears to be a danger to others or to himself or herself or appears to be gravely disabled and requesting that an evaluation of the person's condition be made.

(3) The petition for a court-ordered evaluation shall contain the following:

(a) The name and address of the petitioner and his or her interest in the case;

(b) The name of the person for whom evaluation is sought, who shall be designated as the respondent, and, if known to the petitioner, the address, age, sex, marital status, and occupation of the respondent;

(c) Allegations of fact indicating that the respondent may have a mental illness and, as a result of the mental illness, be a danger to others or to himself or herself or be gravely disabled and showing reasonable grounds to warrant an evaluation;

(d) The name and address of every person known or believed by the petitioner to be legally responsible for the care, support, and maintenance of the respondent, if available;

(e) The name, address, and telephone number of the attorney, if any, who has most recently represented the respondent. If there is no attorney, there shall be a statement as to whether, to the best knowledge of the petitioner, the respondent meets the criteria established by the legal aid agency operating in the county or city and county for it to represent a client.

(4) Upon receipt of a petition satisfying the requirements of subsection (3) of this section, the court shall designate a facility, approved by the executive director, or a professional person to provide screening of the respondent to determine whether there is probable cause to believe the allegations.

(5) Following screening, the facility or professional person designated by the court shall file his or her report with the court. The report shall include a recommendation as to whether there is probable cause to believe that the respondent has a mental illness and, as a result of the mental illness, is a danger to others or to himself or herself or is gravely disabled and whether the respondent will voluntarily receive evaluation or treatment. The screening report submitted to the court shall be confidential in accordance with section 27-65-121 and shall be furnished to the respondent or his or her attorney or personal representative.

(6) Whenever it appears, by petition and screening pursuant to this section, to the satisfaction of the court that probable cause exists to believe that the respondent has a mental illness and, as a result of the mental illness, is a danger to others or to himself or herself or is gravely disabled and that efforts have been made to secure the cooperation of the respondent, who has refused or failed to accept evaluation voluntarily, the court shall issue an order for evaluation authorizing a certified peace officer to take the respondent into custody and place him or her in a facility designated by the executive director for seventy-two-hour treatment and evaluation. At the time of taking the respondent into custody, a copy of the petition and the order for evaluation shall be given to the respondent, and promptly thereafter to any one person

designated by such respondent and to the person in charge of the seventy-two-hour treatment and evaluation facility named in the order or his or her designee.

(7) The respondent shall be evaluated as promptly as possible and shall in no event be detained longer than seventy-two hours under the court order, excluding Saturdays, Sundays, and holidays if treatment and evaluation services are not available on those days. Within that time, the respondent shall be released, referred for further care and treatment on a voluntary basis, or certified for short-term treatment.

(8) At the time the respondent is taken into custody for evaluation or within a reasonable time thereafter, unless a responsible relative is in possession of the respondent's personal property, the certified peace officer taking him or her into custody shall take reasonable precautions to preserve and safeguard the personal property in the possession of or on the premises occupied by the respondent.

(9) When a person is involuntarily admitted to a seventy-two-hour treatment and evaluation facility under the provisions of this section or section 27-65-105, the person shall be advised by the facility director or his or her duly appointed representative that the person is going to be examined with regard to his or her mental condition.

(10) Whenever a person is involuntarily admitted to a seventy-two-hour treatment and evaluation facility, he or she shall be advised by the facility director or his or her duly appointed representative of his or her right to retain and consult with any attorney at any time and that, if he or she cannot afford to pay an attorney, upon proof of indigency, one will be appointed by the court without cost.

**27-65-107. Certification for short-term treatment.** (1) If a person detained for seventy-two hours under the provisions of section 27-65-105 or a respondent under court order for evaluation pursuant to section 27-65-106 has received an evaluation, he or she may be certified for not more than three months of short-term treatment under the following conditions:

(a) The professional staff of the agency or facility providing seventy-two-hour treatment and evaluation has analyzed the person's condition and has found the person has a mental illness and, as a result of the mental illness, is a danger to others or to himself or herself or is gravely disabled.

(b) The person has been advised of the availability of, but has not accepted, voluntary treatment; but, if reasonable grounds exist to believe that the person will not remain in a voluntary treatment program, his or her acceptance of voluntary treatment shall not preclude certification.

(c) The facility which will provide short-term treatment has been designated or approved by the executive director to provide such treatment.

(2) The notice of certification must be signed by a professional person on the staff of the evaluation facility who participated in the evaluation and shall state facts sufficient to establish reasonable grounds to believe that the person has a mental illness and, as a result of the mental illness, is a danger to others or to himself or herself or is gravely disabled. The certification shall be filed with the court within forty-eight hours, excluding Saturdays, Sundays, and court

holidays, of the date of certification. The certification shall be filed with the court in the county in which the respondent resided or was physically present immediately prior to his or her being taken into custody.

(3) Within twenty-four hours of certification, copies of the certification shall be personally delivered to the respondent, and a copy shall be kept by the evaluation facility as part of the person's record. The respondent shall also be asked to designate one other person whom he or she wishes informed regarding certification. If he or she is incapable of making such a designation at the time the certification is delivered, he or she shall be asked to designate such person as soon as he or she is capable. In addition to the copy of the certification, the respondent shall be given a written notice that a hearing upon his or her certification for short-term treatment may be had before the court or a jury upon written request directed to the court pursuant to subsection (6) of this section.

(4) Upon certification of the respondent, the facility designated for short-term treatment shall have custody of the respondent.

(5) Whenever a certification is filed with the court, the court, if it has not already done so under section 27-65-106 (10), shall forthwith appoint an attorney to represent the respondent. The court shall determine whether the respondent is able to afford an attorney. If the respondent cannot afford counsel, the court shall appoint either counsel from the legal services program operating in that jurisdiction or private counsel to represent the respondent. The attorney representing the respondent shall be provided with a copy of the certification immediately upon his or her appointment. Waiver of counsel must be knowingly and intelligently made in writing and filed with the court by the respondent. In the event that a respondent who is able to afford an attorney fails to pay the appointed counsel, such counsel, upon application to the court and after appropriate notice and hearing, may obtain a judgment for reasonable attorney fees against the respondent or person making request for such counsel or both the respondent and such person.

(6) The respondent for short-term treatment or his or her attorney may at any time file a written request that the certification for short-term treatment or the treatment be reviewed by the court or that the treatment be on an outpatient basis. If review is requested, the court shall hear the matter within ten days after the request, and the court shall give notice to the respondent and his or her attorney and the certifying and treating professional person of the time and place thereof. The hearing shall be held in accordance with section 27-65-111. At the conclusion of the hearing, the court may enter or confirm the certification for short-term treatment, discharge the respondent, or enter any other appropriate order, subject to available appropriations.

(7) Records and papers in proceedings under this section and section 27-65-108 shall be maintained separately by the clerks of the several courts. Upon the release of any respondent in accordance with the provisions of section 27-65-110, the facility shall notify the clerk of the court within five days of the release, and the clerk shall forthwith seal the record in the case and omit the name of the respondent from the index of cases in such court until and unless the respondent becomes subject to an order of long-term care and treatment pursuant to section 27-65-109 or until and unless the court orders them opened for good cause shown. In the event a petition is filed pursuant to section 27-65-109, such certification record may be opened and become a part of the record in the long-term care and treatment case and the name of the respondent indexed.

(8) Whenever it appears to the court, by reason of a report by the treating professional person or any other report satisfactory to the court, that a respondent detained for evaluation and treatment or certified for treatment should be transferred to another facility for treatment and the safety of the respondent or the public requires that the respondent be transported by a sheriff, the court may issue an order directing the sheriff or his or her designee to deliver the respondent to the designated facility.

**27-65-108. Extension of short-term treatment.** If the professional person in charge of the evaluation and treatment believes that a period longer than three months is necessary for treatment of the respondent, he or she shall file with the court an extended certification. No extended certification for treatment shall be for a period of more than three months. The respondent shall be entitled to a hearing on the extended certification under the same conditions as in an original certification. The attorney initially representing the respondent shall continue to represent that person, unless the court appoints another attorney.

**27-65-109. Long-term care and treatment of persons with mental illness.** (1) Whenever a respondent has received short-term treatment for five consecutive months under the provisions of sections 27-65-107 and 27-65-108, the professional person in charge of the evaluation and treatment may file a petition with the court for long-term care and treatment of the respondent under the following conditions:

(a) The professional staff of the agency or facility providing short-term treatment has analyzed the respondent's condition and has found that the respondent has a mental illness and, as a result of the mental illness, is a danger to others or to himself or herself or is gravely disabled.

(b) The respondent has been advised of the availability of, but has not accepted, voluntary treatment; but, if reasonable grounds exist to believe that the respondent will not remain in a voluntary treatment program, his or her acceptance of voluntary treatment shall not preclude an order pursuant to this section.

(c) The facility that will provide long-term care and treatment has been designated or approved by the executive director to provide the care and treatment.

(2) Every petition for long-term care and treatment shall include a request for a hearing before the court prior to the expiration of six months from the date of original certification. A copy of the petition shall be delivered personally to the respondent for whom long-term care and treatment is sought and mailed to his or her attorney of record simultaneously with the filing thereof.

(3) Within ten days after receipt of the petition, the respondent or his or her attorney may request a jury trial by filing a written request therefor with the court.

(4) The court or jury shall determine whether the conditions of subsection (1) of this section are met and whether the respondent has a mental illness and, as a result of the mental illness, is a danger to others or to himself or herself or is gravely disabled. The court shall thereupon issue an order of long-term care and treatment for a term not to exceed six months, or

it shall discharge the respondent for whom long-term care and treatment was sought, or it shall enter any other appropriate order, subject to available appropriations. An order for long-term care and treatment shall grant custody of the respondent to the department for placement with an agency or facility designated by the executive director to provide long-term care and treatment. When a petition contains a request that a specific legal disability be imposed or that a specific legal right be deprived, the court may order the disability imposed or the right deprived if it or a jury has determined that the respondent has a mental illness or is gravely disabled and that, by reason thereof, the person is unable to competently exercise said right or perform the function as to which the disability is sought to be imposed. Any interested person may ask leave of the court to intervene as a copetitioner for the purpose of seeking the imposition of a legal disability or the deprivation of a legal right.

(5) An original order of long-term care and treatment or any extension of such order shall expire upon the date specified therein, unless further extended as provided in this subsection (5). If an extension is being sought, the professional person in charge of the evaluation and treatment shall certify to the court at least thirty days prior to the expiration date of the order in force that an extension of the order is necessary for the care and treatment of the respondent subject to the order in force, and a copy of the certification shall be delivered to the respondent and simultaneously mailed to his or her attorney of record. At least twenty days before the expiration of the order, the court shall give written notice to the respondent and his or her attorney of record that a hearing upon the extension may be had before the court or a jury upon written request to the court within ten days after receipt of the notice. If no hearing is requested by the respondent within such time, the court may proceed ex parte. If a hearing is timely requested, it shall be held before the expiration date of the order in force. If the court or jury finds that the conditions of subsection (1) of this section continue to be met and that the respondent has a mental illness and, as a result of the mental illness, is a danger to others or to himself or herself or is gravely disabled, the court shall issue an extension of the order. Any extension shall be for a period of not more than six months, but there may be as many extensions as the court orders pursuant to this section.

**27-65-110. Termination of short-term and long-term treatment - escape.** (1) An original certification for short-term treatment under section 27-65-107, or an extended certification under section 27-65-108, or an order for long-term care and treatment or any extension thereof shall terminate as soon as, in the opinion of the professional person in charge of treatment of the respondent, the respondent has received sufficient benefit from such treatment for him or her to leave. Whenever a certification or extended certification is terminated under this section, the professional person in charge of providing treatment shall so notify the court in writing within five days of such termination. Such professional person may also prescribe day care, night care, or any other similar mode of treatment prior to termination.

(2) Before termination, an escaped respondent may be returned to the facility by order of the court without a hearing or by the superintendent or director of such facility without order of court. After termination, a respondent may be returned to the institution only in accordance with the provisions of this article.

**27-65-111. Hearing procedures - jurisdiction.** (1) Hearings before the court under section 27-65-107, 27-65-108, or 27-65-109 shall be conducted in the same manner as other civil proceedings before the court. The burden of proof shall be upon the person or facility seeking to detain the respondent. The court or jury shall determine that the respondent is in need of care and treatment only if the court or jury finds by clear and convincing evidence that the person has a mental illness and, as a result of the mental illness, is a danger to others or to himself or herself or is gravely disabled.

(2) The court, after consultation with respondent's counsel to obtain counsel's recommendations, may appoint a professional person to examine the respondent for whom short-term treatment or long-term care and treatment is sought and to testify at the hearing before the court as to the results of his or her examination. The court-appointed professional person shall act solely in an advisory capacity, and no presumption shall attach to his or her findings.

(3) Every respondent subject to an order for short-term treatment or long-term care and treatment shall be advised of his or her right to appeal the order by the court at the conclusion of any hearing as a result of which such an order may be entered.

(4) The court in which the petition is filed under section 27-65-106 or the certification is filed under section 27-65-107 shall be the court of original jurisdiction and of continuing jurisdiction for any further proceedings under this article. When the convenience of the parties and the ends of justice would be promoted by a change in the court having jurisdiction, the court may order a transfer of the proceeding to another county. Until further order of the transferee court, if any, it shall be the court of continuing jurisdiction.

(5) (a) In the event that a respondent or a person found not guilty by reason of impaired mental condition pursuant to section 16-8-103.5 (5), C.R.S., or by reason of insanity pursuant to section 16-8-105 (4) or 16-8-105.5, C.R.S., refuses to accept medication, the court having jurisdiction of the action pursuant to subsection (4) of this section, the court committing the person or defendant to the custody of the department pursuant to section 16-8-103.5 (5), 16-8-105 (4), or 16-8-105.5, C.R.S., or the court of the jurisdiction in which the designated facility treating the respondent or person is located shall have jurisdiction and venue to accept a petition by a treating physician and to enter an order requiring that the respondent or person accept such treatment or, in the alternative, that the medication be forcibly administered to him or her. The court of the jurisdiction in which the designated facility is located shall not exercise its jurisdiction without the permission of the court that committed the person to the custody of the department. Upon the filing of such a petition, the court shall appoint an attorney, if one has not been appointed, to represent the respondent or person and hear the matter within ten days.

(b) In any case brought under paragraph (a) of this subsection (5) in a court for the county in which the treating facility is located, the county where the proceeding was initiated pursuant to subsection (4) of this section or the court committing the person to the custody of the department pursuant to section 16-8-103.5 (5), 16-8-105 (4), or 16-8-105.5, C.R.S., shall either reimburse the county in which the proceeding pursuant to this subsection (5) was filed and in which the proceeding was held for the reasonable costs incurred in conducting the proceeding or conduct the proceeding itself using its own personnel and resources, including its own district or

county attorney, as the case may be.

(c) In the case of a defendant who is found incompetent to proceed pursuant to section 16-8.5-103, C.R.S., and who refuses to accept medication, the jurisdiction for the petition for involuntary treatment procedures shall be as set forth in section 16-8.5-112, C.R.S.

(6) All proceedings under this article, including proceedings to impose a legal disability pursuant to section 27-65-127, shall be conducted by the district attorney of the county where the proceeding is held or by a qualified attorney acting for the district attorney appointed by the district court for that purpose; except that, in any county or in any city and county having a population exceeding fifty thousand persons, the proceedings shall be conducted by the county attorney or by a qualified attorney acting for the county attorney appointed by the district court. In any case in which there has been a change of venue to a county other than the county of residence of the respondent or the county in which the certification proceeding was commenced, the county from which the proceeding was transferred shall either reimburse the county to which the proceeding was transferred and in which the proceeding was held for the reasonable costs incurred in conducting the proceeding or conduct the proceeding itself using its own personnel and resources, including its own district or county attorney, as the case may be. Upon request of a guardian appointed pursuant to article 14 of title 15, C.R.S., the guardian may intervene in any proceeding under this article concerning his or her ward and, through counsel, may present evidence and represent to the court the views of the guardian concerning the appropriate disposition of the case.

**27-65-112. Appeals.** Appellate review of any order of short-term treatment or long-term care and treatment may be had as provided in the Colorado appellate rules. Such appeal shall be advanced upon the calendar of the appellate court and shall be decided at the earliest practicable time. Pending disposition by the appellate court, it may make such order as it may consider proper in the premises relating to the care and custody of the respondent.

**27-65-113. Habeas corpus.** Any person detained pursuant to this article shall be entitled to an order in the nature of habeas corpus upon proper petition to any court generally empowered to issue orders in the nature of habeas corpus.

**27-65-114. Restoration of rights.** Any person who, by reason of a judicial decree entered by a court of this state prior to July 1, 1975, is adjudicated as a person with a mental illness shall be deemed to have been restored to legal capacity and competency.

**27-65-115. Discrimination.** No person who has received evaluation or treatment under any provisions of this article shall be discriminated against because of such status. For purposes of this section, "discrimination" means giving any undue weight to the fact of hospitalization or outpatient care and treatment unrelated to a person's present capacity to meet standards

applicable to all persons. Any person who suffers injury by reason of a violation of this section shall have a civil cause of action.

**27-65-116. Right to treatment.** (1) (a) Any person receiving evaluation or treatment under any of the provisions of this article is entitled to medical and psychiatric care and treatment, with regard to services listed in section 27-66-101 and services listed in rules authorized by section 27-66-102, suited to meet his or her individual needs, delivered in such a way as to keep him or her in the least restrictive environment, and delivered in such a way as to include the opportunity for participation of family members in his or her program of care and treatment when appropriate, all subject to available appropriations. Nothing in this paragraph (a) shall create any right with respect to any person other than the person receiving evaluation, care, or treatment. The professional person and the agency or facility providing evaluation, care, or treatment shall keep records detailing all care and treatment received by such person, and such records shall be made available, upon that person's written authorization, to his or her attorney or his or her personal physician. Such records shall be permanent records and retained in accordance with the provisions of section 27-65-121 (4).

(b) Any person receiving evaluation or treatment under any of the provisions of this article is entitled to petition the court pursuant to the provisions of section 13-45-102, C.R.S., subject to available appropriations, for release to a less restrictive setting within or without a treating facility or release from a treating facility when adequate medical and psychiatric care and treatment is not administered.

(2) The department shall adopt regulations to assure that each agency or facility providing evaluation, care, or treatment shall require the following:

(a) Consent for specific therapies and major medical treatment in the nature of surgery. The nature of the consent, by whom it is given, and under what conditions, shall be determined by rules of the department.

(b) The order of a physician for any treatment or specific therapy based on appropriate medical examinations;

(c) Notation in the patient's treatment record of periodic examinations, evaluations, orders for treatment, and specific therapies signed by personnel involved;

(d) Conduct according to the guidelines contained in the regulations of the federal government and the department with regard to clinical investigations, research, experimentation, and testing of any kind; and

(e) Documentation of the findings, conclusions, and decisions in any administrative review of a decision to release or withhold the information requested by a family member pursuant to section 27-65-121 (1) (g) or (1) (h) and documentation of any information given to a family member.

**27-65-117. Rights of persons receiving evaluation, care, or treatment.** (1) Each person receiving evaluation, care, or treatment under any provision of this article has the following rights and shall be advised of such rights by the facility:

(a) To receive and send sealed correspondence. No incoming or outgoing correspondence shall be opened, delayed, held, or censored by the personnel of the facility.

(b) To have access to letter-writing materials, including postage, and to have staff members of the facility assist him or her if unable to write, prepare, and mail correspondence;

(c) To have ready access to telephones, both to make and to receive calls in privacy;

(d) To have frequent and convenient opportunities to meet with visitors. Each person may see his or her attorney, clergyman, or physician at any time.

(e) To wear his or her own clothes, keep and use his or her own personal possessions, and keep and be allowed to spend a reasonable sum of his or her own money.

(2) A person's rights under subsection (1) of this section may be denied for good cause only by the professional person providing treatment. Denial of any right shall in all cases be entered into the person's treatment record. Information pertaining to a denial of rights contained in the person's treatment record shall be made available, upon request, to the person or his or her attorney.

(3) No person admitted to or in a facility shall be fingerprinted unless required by other provisions of law.

(4) A person may be photographed upon admission for identification and the administrative purposes of the facility. The photographs shall be confidential and shall not be released by the facility except pursuant to court order. No other nonmedical photographs shall be taken or used without appropriate consent or authorization.

(5) Any person receiving evaluation or treatment under any of the provisions of this article is entitled to a written copy of all his or her rights enumerated in this section, and a minor child shall receive written notice of his or her rights as provided in section 27-65-103 (7) (g). A list of such rights shall be prominently posted in all evaluation and treatment facilities.

**27-65-118. Administration or monitoring of medications to persons receiving care.** The executive director has the power to direct the administration or monitoring of medications in conformity with part 3 of article 1.5 of title 25, C.R.S., to persons receiving treatment in facilities created pursuant to this article.

**27-65-119. Employment of persons in a facility - rules.** The department shall adopt rules governing the employment and compensation therefor of persons receiving care or treatment under any provision of this article. The department shall establish standards for reasonable compensation for such employment.

**27-65-120. Voting in public elections.** Any person receiving evaluation, care, or treatment under this article shall be given the opportunity to exercise his or her right to register and to vote in primary and general elections. The agency or facility providing evaluation, care, or treatment shall assist such persons, upon their request, to obtain voter registration forms and mail ballots and to comply with any other prerequisite for voting.

**27-65-121. Records.** (1) Except as provided in subsection (2) of this section, all information obtained and records prepared in the course of providing any services under this article to individuals under any provision of this article shall be confidential and privileged matter. The information and records may be disclosed only:

(a) In communications between qualified professional personnel in the provision of services or appropriate referrals;

(b) When the recipient of services designates persons to whom information or records may be released; but, if a recipient of services is a ward or conservatee and his or her guardian or conservator designates, in writing, persons to whom records or information may be disclosed, the designation shall be valid in lieu of the designation by the recipient; except that nothing in this section shall be construed to compel a physician, psychologist, social worker, nurse, attorney, or other professional personnel to reveal information that has been given to him or her in confidence by members of a patient's family or other informants;

(c) To the extent necessary to make claims on behalf of a recipient of aid, insurance, or medical assistance to which he or she may be entitled;

(d) If the department has promulgated rules for the conduct of research. Such rules shall include, but not be limited to, the requirement that all researchers must sign an oath of confidentiality. All identifying information concerning individual patients, including names, addresses, telephone numbers, and social security numbers, shall not be disclosed for research purposes.

(e) To the courts, as necessary to the administration of the provisions of this article;

(f) To persons authorized by an order of court after notice and opportunity for hearing to the person to whom the record or information pertains and the custodian of the record or information pursuant to the Colorado rules of civil procedure;

(g) To adult family members upon admission of a person with a mental illness for inpatient or residential care and treatment. The only information released pursuant to this paragraph (g) shall be the location and fact of admission of the person with a mental illness who is receiving care and treatment. The disclosure of location is governed by the procedures in section 27-65-122 and is subject to review under section 27-65-122.

(h) To adult family members actively participating in the care and treatment of a person with a mental illness regardless of the length of the participation. The information released pursuant to this paragraph (h) shall be limited to one or more of the following: The diagnosis, the prognosis, the need for hospitalization and anticipated length of stay, the discharge plan, the medication administered and side effects of the medication, and the short-term and long-term treatment goals. The disclosure is governed by the procedures in section 27-65-122 (2) and is subject to review under section 27-65-122.

(i) In accordance with state and federal law to the agency designated pursuant to the federal "Protection and Advocacy for Mentally Ill Individuals Act", 42 U.S.C. sec. 10801, et seq., as the governor's protection and advocacy system for Colorado.

(2) Nothing in paragraph (g) or (h) of subsection (1) of this section shall be deemed to preclude the release of information to a parent concerning his or her minor child.

(3) (a) Nothing in this article shall be construed as rendering privileged or confidential any information, except written medical records and information that is privileged under section 13-90-107, C.R.S., concerning observed behavior that constitutes a criminal offense committed upon the premises of any facility providing services under this article or any criminal offense committed against any person while performing or receiving services under this article.

(b) The provisions of subsection (1) of this section shall not apply to physicians or psychologists eligible to testify concerning a criminal defendant's mental condition pursuant to section 16-8-103.6, C.R.S.

(4) (a) All facilities shall maintain and retain permanent records, including all applications as required pursuant to section 27-65-105 (3).

(b) Outpatient or ambulatory care facilities shall retain all records for a minimum of seven years after discharge from the facility for persons who were eighteen years of age or older when admitted to the facility, or until twenty-five years of age for persons who were under eighteen years of age when admitted to the facility.

(c) Inpatient or hospital care facilities shall retain all records for a minimum of ten years after discharge from the facility for persons who were eighteen years of age or older when admitted to the facility, or until twenty-eight years of age for persons who were under eighteen years of age when admitted to the facility.

(5) Nothing in this section shall be construed to prohibit or limit the sharing of information by a state institution of higher education police department to authorized university administrators pursuant to section 23-5-141, C.R.S.

**27-65-122. Request for release of information - procedures - review of a decision concerning release of information.** (1) When a family member requests the location and fact of admission of a person with a mental illness pursuant to section 27-65-121 (1) (g), the treating professional person or his or her designee, who shall be a professional person, shall decide whether to release or withhold such information. The location shall be released unless the treating professional person or his or her designee determines, after an interview with the person with a mental illness, that release of the information to a particular family member would not be in the best interests of the person with a mental illness. Any decision to withhold information requested pursuant to section 27-65-121 (1) (g) is subject to administrative review pursuant to this section upon request of a family member or the person with a mental illness. The treating facility shall make a record of the information given to a family member pursuant to this subsection (1). For the purposes of this subsection (1), an adult person having a similar relationship to a person with a mental illness as a spouse, parent, child, or sibling of a person with a mental illness may also request the location and fact of admission concerning a person with a mental illness.

(2) (a) When a family member requests information pursuant to section 27-65-121 (1) (h) concerning a person with a mental illness, the treating professional person or his or her designee shall determine whether the person with a mental illness is capable of making a rational decision in weighing his or her confidentiality interests and the care and treatment interests implicated by the release of information. The treating professional person or his or her designee shall then

determine whether the person with a mental illness consents or objects to such release. Information shall be released or withheld in the following circumstances:

(I) If the treating professional person or his or her designee makes a finding that the person with a mental illness is capable of making a rational decision concerning his or her interests and the person with a mental illness consents to the release of information, the treating professional person or his or her designee shall order the release of the information unless he or she determines that the release would not be in the best interests of the person with a mental illness.

(II) If the treating professional person or his or her designee makes a finding that the person with a mental illness is capable of making a rational decision concerning his or her interests and the person with a mental illness objects to the release of information, the treating professional person or his or her designee shall not order the release of the information.

(III) If the treating professional person or his or her designee makes a finding that the person with a mental illness is not capable of making a rational decision concerning his or her interests, the treating professional person or his or her designee may order the release of the information if he or she determines that the release would be in the best interests of the person with a mental illness.

(IV) Any determination as to capacity under this paragraph (a) shall be used only for the limited purpose of this paragraph (a).

(b) A decision by a treating professional person or his or her designee concerning the capability of a person with a mental illness under subparagraph (III) of paragraph (a) of this subsection (2) is subject to administrative review upon the request of the person with a mental illness. A decision by a treating professional person or his or her designee to order the release or withholding of information under subparagraph (III) of paragraph (a) of this subsection (2) is subject to administrative review upon the request of either a family member or the person with a mental illness.

(c) The director of the treating facility shall make a record of any information given to a family member pursuant to paragraph (a) of this subsection (2) and section 27-65-121 (1) (h).

(3) When administrative review is requested either under subsection (1) or paragraph (b) of subsection (2) of this section, the director of the facility providing care and treatment to the person with a mental illness shall cause an objective and impartial review of the decision to withhold or release information. The review shall be conducted by the director of the facility, if he or she is a professional person, or by a professional person whom he or she designates if the director is not available or if the director cannot provide an objective and impartial review. The review shall include, but need not be limited to, an interview with the person with a mental illness. The facility providing care and treatment shall document the review of the decision.

(4) If a person with a mental illness objects to the release or withholding of information, the person with a mental illness and his or her attorney, if any, shall be provided with information concerning the procedures for administrative review of a decision to release or withhold information. The person with a mental illness shall be informed of any information proposed to be withheld or released and to whom and shall be given a reasonable opportunity to initiate the administrative review process before information concerning his or her care and treatment is released.

(5) A family member whose request for information is denied shall be provided with information concerning the procedures for administrative review of a decision to release or withhold information.

(6) A person with a mental illness may file a written request for review by the court of a decision made upon administrative review to release information to a family member requested under section 27-65-121 (1) (h) and proposed to be released pursuant to subsection (2) of this section. If judicial review is requested, the court shall hear the matter within ten days after the request, and the court shall give notice to the person with a mental illness and his or her attorney, the treating professional person, and the person who made the decision upon administrative review of the time and place thereof. The hearing shall be conducted in the same manner as other civil proceedings before the court.

(7) In order to allow a person with a mental illness an opportunity to seek judicial review, the treating facility or the treating professional person or his or her designee shall not release information requested pursuant to section 27-65-121 (1) (h) until five days after the determination upon administrative review of the director or his or her designee is received by the person with a mental illness, and, once judicial review is requested, information shall not be released except by court order. However, if the person with a mental illness indicates an intention not to appeal a determination upon administrative review that is adverse to him or her concerning the release of information, the information may be released less than five days after the determination upon review is received by the person with a mental illness.

(8) This section provides for the release of information only and shall not be deemed to authorize the release of the written medical record without authorization by the patient or as otherwise provided by law.

(9) For purposes of this section, the treating professional person's designee shall be a professional person.

**27-65-123. Treatment in federal facilities.** (1) If a person is certified under the provisions of this article and is eligible for hospital care or treatment by an agency of the United States and if a certificate of notification from said agency, showing that facilities are available and that the person is eligible for care or treatment therein, is received, the court may order him or her to be placed in the custody of the agency for hospitalization. When any person is admitted pursuant to an order of court to any hospital or institution operated by any agency of the United States within or without this state, the person shall be subject to the rules and regulations of the agency. The chief officer of any hospital or institution operated by an agency and in which the person is so hospitalized shall, with respect to the person, be vested with the same powers as the chief officer of the Colorado mental health institute at Pueblo with respect to detention, custody, transfer, conditional release, or discharge of patients. Jurisdiction shall be retained in the appropriate courts of this state to inquire into the mental condition of persons so hospitalized and to determine the necessity for continuance of their hospitalization.

(2) An order of a court of competent jurisdiction of another state, territory, or the District of Columbia, authorizing hospitalization of a person to any agency of the United States, shall have the same effect as to said person while in this state as in the jurisdiction in which the court

entering the order is situated; the courts of the state or district issuing the order shall be deemed to have retained jurisdiction of the person so hospitalized for the purpose of inquiring into his or her mental condition and of determining the necessity for continuance of his or her hospitalization. Consent is hereby given to the application of the law of the state or district in which the court issuing the order for hospitalization is located, with respect to the authority of the chief officer of any hospital or institution operated in this state by any agency of the United States to retain custody, to transfer, to conditionally release, or to discharge the person hospitalized.

**27-65-124. Transfer of persons into and out of Colorado - reciprocal agreements.** The transfer of persons hospitalized voluntarily under the provisions of this article out of Colorado or under the laws of another jurisdiction into Colorado shall be governed by the provisions of the interstate compact on mental health.

**27-65-125. Criminal proceedings.** Proceedings under section 27-65-105, 27-65-106, or 27-65-107 shall not be initiated or carried out involving a person charged with a criminal offense unless or until the criminal offense has been tried or dismissed; except that the judge of the court wherein the criminal action is pending may request the district or probate court to authorize and permit such proceedings.

**27-65-126. Application of this article.** The provisions of this article do not apply to or govern any proceedings commenced or concluded prior to July 1, 1975, with the exception of section 27-65-114. Any proceeding commenced prior to July 1, 1975, shall be administered and disposed of according to the provisions of law existing prior to July 1, 1975, in the same manner as if this article had not been enacted.

**27-65-127. Imposition of legal disability - deprivation of legal right - restoration.** (1) (a) When an interested person wishes to obtain a determination as to the imposition of a legal disability or the deprivation of a legal right for a person who has a mental illness and who is a danger to himself or herself or others, is gravely disabled, or is insane, as defined in section 16-8-101, C.R.S., and who is not then subject to proceedings under this article or part 3 or part 4 of article 14 of title 15, C.R.S., the interested person may petition the court for a specific finding as to the legal disability or deprivation of a legal right. Actions commenced pursuant to this subsection (1) may include but shall not be limited to actions to determine contractual rights and rights with regard to the operation of motor vehicles.

(b) The petition shall set forth the disability to be imposed or the legal right to be deprived and the reasons therefor.

(2) The court may impose a legal disability or may deprive a person of a legal right only upon finding both of the following:

(a) That the respondent is a person with a mental illness and is a danger to himself or herself or others, gravely disabled, or insane, as defined in section 16-8-101, C.R.S.;

(b) That the requested disability or deprivation is both necessary and desirable.

(3) To have a legal disability removed or a legal right restored, any interested person may file a petition with the court which made the original finding. No legal disability shall be imposed nor a legal right be deprived for a period of more than six months without a review hearing by the court at the end of six months at which the findings specified in subsection (2) of this section shall be reaffirmed to justify continuance of the disability or deprivation. A copy of the petition shall be served on the person who filed the original petition, on the person whose rights are affected if he or she is not the petitioner, and upon the facility where the person whose rights are affected resides, if any.

(4) Whenever any proceedings are instituted or conducted pursuant to this section, the following procedures shall apply:

(a) Upon the filing of a petition, the court shall appoint an attorney-at-law to represent the respondent. The respondent may replace said attorney with an attorney of the respondent's own selection at any time. Attorney fees for an indigent respondent shall be paid by the court.

(b) The court, upon request of an indigent respondent or his or her attorney, shall appoint, at the court's expense, one or more professional persons of the respondent's selection to assist the respondent in the preparation of his or her case.

(c) Upon demand made at least five days prior to the date of hearing, the respondent shall have the right to a trial of all issues by a jury of six.

(d) At all times the burden shall be upon the person seeking imposition of a disability or deprivation of a legal right or opposing removal of a disability or deprivation to prove all essential elements by clear and convincing evidence.

(e) Pending a hearing, the court may issue an order temporarily imposing a disability or depriving the respondent of a legal right for a period of not more than ten days in conformity with the standards for issuance of ex parte temporary restraining orders in civil cases, but no individual habilitation or rehabilitation plan shall be required prior to the issuance of such order.

(f) Except as otherwise provided in this subsection (4), all proceedings shall be held in conformance with the Colorado rules of civil procedure, but no costs shall be assessed against the respondent.

(5) Any person who, by reason of a judicial decree or order entered by a court of this state prior to July 1, 1979, is under the imposition of a legal disability or has been deprived of a legal right pursuant to this section as it existed prior to July 1, 1979, shall be released from such decree or order on December 31, 1979.

**27-65-128. Administration - rules.** The department shall make such rules as will consistently enforce the provisions of this article.

**27-65-129. Payment for counsel.** In order to provide legal representation to persons eligible therefor as provided in this article, the judicial department is authorized to pay, out of

appropriations made therefor by the general assembly, sums directly to appointed counsel on a case-by-case basis or, on behalf of the state, to make lump-sum grants to and contract with individual attorneys, legal partnerships, legal professional corporations, public interest law firms, or nonprofit legal services corporations.

**27-65-130. Mental health service standards for health care facilities.** The advisory board created by section 27-65-131 shall be responsible for recommending standards and rules relevant to the provisions of this article for the programs of mental health services to those patients in any health care facility that has either separate facilities for the care, treatment, and rehabilitation of persons with mental health problems or those health care facilities that have as their only purpose the treatment and care of such persons.

**27-65-131. Advisory board - service standards and rules.** There is hereby established an advisory board to the department for the purpose of assisting and advising the executive director in accordance with section 27-65-130 in the development of service standards and rules. The board shall consist of not less than eleven nor more than fifteen members appointed by the governor and shall include one representative each from the unit in the department that administers behavioral health programs and services, including those related to mental health and substance abuse, the department of human services, the department of public health and environment, the university of Colorado health sciences center, and a leading professional association of psychiatrists in this state; at least one member representing proprietary skilled health care facilities; one member representing nonprofit health care facilities; one member representing the Colorado bar association; one member representing consumers of mental health services; one member representing families of persons with mental illness; one member representing children's health care facilities; and other persons from both the private and the public sectors who are recognized or known to be interested and informed in the area of the board's purpose and function. In making appointments to the board, the governor is encouraged to include representation by at least one member who is a person with a disability, as defined in section 24-45.5-102 (2), C.R.S., a family member of a person with a disability, or a member of an advocacy group for persons with disabilities, provided that the other requirements of this section are met.

## ARTICLE 66

Community Mental Health Services - Purchase

**27-66-101. Definitions.** As used in this article, unless the context otherwise requires:

(1) "Acute treatment unit" means a facility or a distinct part of a facility for short-term psychiatric care, which may include substance abuse treatment, that provides a total, twenty-four-hour, therapeutically planned and professionally staffed environment for persons who do not require inpatient hospitalization but need more intense and individual services than are available on an outpatient basis, such as crisis management and stabilization services.

(2) "Community mental health center" means either a physical plant or a group of services under unified administration or affiliated with one another, and including at least the following services provided for the prevention and treatment of mental illness in persons residing in a particular community in or near the facility so situated:

(a) Inpatient services;

(b) Outpatient services;

(c) Partial hospitalization;

(d) Emergency services;

(e) Consultative and educational services.

(3) "Community mental health clinic" means a health institution planned, organized, operated, and maintained to provide basic community services for the prevention, diagnosis, and treatment of emotional or mental disorders, such services being rendered primarily on an outpatient and consultative basis.

(4) "Department" means the department of human services created in section 26-1-105, C.R.S.

(5) "Executive director" means the executive director of the department of human services.

(6) "Unit" means the unit in the department that administers behavioral health programs and services, including those related to mental health and substance abuse.

**27-66-102. Administration - rules.** (1) The executive director has the power and duty to administer and enforce the provisions of this article.

(2) The department may adopt reasonable and proper rules to implement this article in accordance with the provisions of section 24-4-103, C.R.S., and consistent with sections 27-90-102 and 27-90-103.

**27-66-103. Community mental health services - purchase program.** In order to encourage the development of preventive, treatment, and rehabilitative services through new community mental health programs, the improvement and expansion of existing community mental health services, and the integration of community with state mental health services, there is established a program to purchase community mental health services by the department.

**27-66-104. Types of services purchased - limitation on payments - offender mental health services fund.** (1) Community mental health services may be purchased from clinics, community mental health centers, local general or psychiatric hospitals, and other agencies that

have been approved by the executive director.

(2) (a) Each year the general assembly shall appropriate funds for the purchase of mental health services from:

(I) Community mental health centers;

(II) Agencies that provide specialized clinic-type services but do not serve a specific designated service area; and

(III) Acute treatment units.

(b) The funds appropriated for the purposes of this subsection (2) shall be distributed by the executive director to approved community mental health centers and other agencies on the basis of need and in accordance with the services provided.

(3) Each year the general assembly may appropriate funds in addition to those appropriated for purposes of subsection (2) of this section, which funds may be used by the executive director to assist community mental health clinics and centers in instituting innovative programs, in providing mental health services to impoverished areas, and in dealing with crisis situations. The executive director shall require that any innovative or crisis programs for which funds are allocated under this subsection (3) be clearly defined in terms of services to be rendered, program objectives, scope and duration of the program, and the maximum amount of funds to be provided.

(4) (a) The offender mental health services fund, referred to in this subsection (4) as the "fund", is hereby created in the state treasury. The principal of the fund consists of tobacco litigation settlement moneys transferred by the state treasurer to the fund in accordance with section 24-75-1104.5 (1.5) (a) (II), C.R.S., for the purchase of mental health services for juvenile and adult offenders who have mental health problems and are involved in the criminal justice system. The unit, subject to annual appropriation by the general assembly, shall distribute the principal of the fund to the community mental health centers. The lesser of all unexpended and unencumbered moneys in the fund at the end of any fiscal year or an amount of such moneys equal to five percent of the amount appropriated from the fund for the fiscal year remain in the fund and shall not be transferred to the general fund or any other fund. Any additional unexpended and unencumbered moneys in the fund at the end of any fiscal year shall be transferred to the tobacco litigation settlement cash fund created in section 24-22-115, C.R.S.

(b) Notwithstanding any provision of paragraph (a) of this subsection (4) to the contrary, on April 20, 2009, the state treasurer shall deduct two hundred forty-six thousand three hundred fifty dollars from the fund and transfer such sum to the general fund.

(5) If there is a reduction in the financial support of local governmental bodies for community mental health services, the executive director is authorized to reduce state payments for services in an amount proportional to the reduction in such local financial support.

(6) For purposes of entering into a cooperative purchasing agreement pursuant to section 24-110-201, C.R.S., a nonprofit community mental health center or a nonprofit community mental health clinic may be certified as a local public procurement unit as provided in section 24-110-207.5, C.R.S.

**27-66-105. Standards for approval.** (1) In approving or rejecting community mental

health clinics for the purchase of mental health services, the executive director shall:

(a) Consider the adequacy of mental health services provided by such clinics, taking into consideration such factors as geographic location, local economic conditions, and availability of manpower;

(b) Require that overall responsibility for the administration of a community mental health clinic be vested in a director who is a physician or a member of one of the mental health professions;

(c) Require that the treatment programs of the clinic be under the overall direction of a psychiatrist who is a physician licensed to practice medicine in the state of Colorado;

(d) Require that the clinic staff include, wherever feasible, other professional staff workers, such as psychologists, social workers, educational consultants, and nurses, with such qualifications, responsibilities, and time on the job as correspond with the size and capacity of the clinic. The clinic staff may include, with the approval of the executive director, such other nonprofessional persons as may be deemed necessary by the clinic board for the proper discharge of its functions.

(e) Require that each clinic from which services may be purchased be under the control and direction of a county or community board of health, a board of directors or trustees of a corporation, for profit or not for profit, a regional mental health and mental retardation board, or a political subdivision of the state;

(f) Consider the existence of facilities that provide an emphasis on the care and treatment of persons recently released from mental hospitals or institutions directed toward assisting said persons in their adjustment to and functioning within society as a whole.

(2) In approving or rejecting local general or psychiatric hospitals, community mental health centers, acute treatment units, and other agencies for the purchase of services not provided by local mental health clinics, including, but not limited to, twenty-four-hour and partial hospitalization, the executive director shall consider the following factors:

(a) The general quality of care provided to patients by such agencies;

(b) The organization of the medical staff to provide for the integration and coordination of the psychiatric treatment program;

(c) The provisions for the availability of nursing, psychological, and social services and the existence of an organized program of activities under the direction of an occupational therapist or of another qualified person;

(d) The licensure by the department of public health and environment or another state agency where applicable;

(e) The methods by which the agency coordinates its services with those rendered by other agencies to ensure an uninterrupted continuum of care to persons with mental illness; and

(f) The availability of such services to the general public.

(3) In the purchase of services from community mental health centers, the executive director shall specify levels and types of inpatient, outpatient, consultation, education, and training services and expenditures and shall establish minimum standards for other programs of such centers that are to be supported with state funds.

**27-66-106. Federal grants-in-aid - administration.** The department is designated the official mental health and mental retardation authority, and is authorized to receive grants-in-aid from the federal government under the provisions of 42 U.S.C. sec. 246, and shall administer said grants in accordance therewith.

**27-66-107. Purchase of services by courts, counties, municipalities, school districts, and other political subdivisions.** Any county, municipality, school district, health service district, or other political subdivision of the state or any county, district, or juvenile court is authorized to purchase mental health services from community mental health clinics and such other community agencies as are approved for purchases by the executive director. For the purchase of mental health services by counties or city and counties as authorized by this section, the board of county commissioners of any county or the city council of any city and county may levy a tax not to exceed two mills upon real property within the county or city and county if the board first submits the question of such levy to a vote of the qualified electors at a general election and receives their approval of such levy.

**27-66-108. Institutes and training programs.** The department may, from time to time during each year, provide consultation and conduct institutes and training programs on a state, regional, district, county, or community level as necessary to coordinate, inform, and assist in the training of staff members of the various approved community mental health programs of the state. The department may reimburse staff members for reasonable and necessary expenses incurred in attending the institutes and training programs.

**27-66-109. Family mental health services grant program - rural areas - creation - administration - report - repeal. (Repealed)**

## ARTICLE 67

Child Mental Health Treatment Act

**27-67-101. Short title.** This article shall be known and may be cited as the "Child Mental Health Treatment Act".

**27-67-102. Legislative declaration.** (1) The general assembly finds that many parents

in Colorado have experienced challenging circumstances because their children have significant mental health needs. Many times, the parents are loving, caring parents who have become increasingly frustrated in their attempts to navigate the various governmental systems including child welfare, mental health, law enforcement, juvenile justice, education, and youth corrections in an attempt to find help for their children. Frequently in these situations an action in dependency or neglect under article 3 of title 19, C.R.S., is neither appropriate nor warranted.

(2) The general assembly finds that it is desirable to assist children with mental health needs and their families. The general assembly further finds that it is desirable to make mental health services more available to families who want treatment for their children. The general assembly finds that, although the mental health agencies are responsible for providing the full range of mental health treatment services, including residential care, for those children who have been found to be categorically eligible for medicaid, there remains a population of children in need of mental health services who are not categorically eligible for medicaid. Accordingly, the general assembly determines that it is appropriate to adopt a program pursuant to which a continuum of services would be provided to these children.

**27-67-103. Definitions.** As used in this article, unless the context otherwise requires:

(1) "Behavioral health organization" shall have the same meaning as provided in section 25.5-5-403 (1), C.R.S.

(2) "Child at risk of out-of-home placement" means a child who, although not otherwise categorically eligible for medicaid, meets the following criteria:

(a) Has been diagnosed as having a mental illness, as defined in section 27-65-102 (14);

(b) Requires a level of care that is provided in a residential child care facility pursuant to section 25.5-5-306, C.R.S., or that is provided through in-home or community-based programs and who, without such care, is at risk of out-of-home placement;

(c) If determined to be in need of placement in a residential child care facility, is determined to be eligible for supplemental security income; and

(d) For whom it is inappropriate or unwarranted to file an action in dependency or neglect pursuant to article 3 of title 19, C.R.S.

(3) "Community mental health center" means either a physical plant or a group of services under unified administration or affiliated with one another and includes at least the following services provided for the prevention and treatment of mental illness in persons residing in a particular community in or near the facility or group so situated:

(a) Inpatient services;

(b) Outpatient services;

(c) Partial hospitalization;

(d) Emergency services; and

(e) Consultative and educational services.

(4) "County department" means the county or district department of social services.

(5) "Master settlement agreement" means the master settlement agreement, the smokeless tobacco master settlement agreement, and the consent decree approved and entered by the court in the case denominated *State of Colorado, ex rel. Gale A. Norton, Attorney General v. R.J.*

*Reynolds Tobacco Co.; American Tobacco Co., Inc.; Brown & Williamson Tobacco Corp.; Liggett & Myers, Inc.; Lorillard Tobacco Co., Inc.; Philip Morris, Inc.; United States Tobacco Co.; B.A.T. Industries, P.L.C.; The Council For Tobacco Research--U.S.A., Inc.; and Tobacco Institute, Inc.,* Case No. 97 CV 3432, in the district court for the city and county of Denver.

(6) "Mental health agency" means the community mental health center serving children in a particular geographic area or the behavioral health organization serving children in a particular geographic area who are receiving medicaid.

(7) "State department" means the state department of human services.

**27-67-104. Provision of mental health treatment services for youth.** (1) (a) A parent or guardian may apply to a mental health agency on behalf of his or her minor child for mental health treatment services for the child pursuant to this section, whether the child is categorically eligible for medicaid under the capitated mental health system described in section 25.5-5-411, C.R.S., or whether the parent believes his or her child is a child at risk of out-of-home placement. In such circumstances, it shall be the responsibility of the mental health agency to evaluate the child and to clinically assess the child's need for mental health services and, when warranted, to provide treatment services as necessary and in the best interests of the child and the child's family. Subject to available state appropriations, the mental health agency shall be responsible for the provision of the treatment services and care management, including any in-home family mental health treatment, other family preservation services, residential treatment, or any post-residential follow-up services that may be appropriate for the child's or family's needs. For the purposes of this section, the term "care management" includes, but is not limited to, consideration of the continuity of care and array of services necessary for appropriately treating the child and the decision-making authority regarding a child's placement in and discharge from mental health services. A dependency or neglect action pursuant to article 3 of title 19, C.R.S., shall not be required in order to allow a family access to residential mental health treatment services for a child.

(b) At the time of the assessment by the mental health agency, if residential services are denied, or at the time when the mental health agency has recommended that the child be discharged from services, the mental health agency shall advise the family, both orally and in writing, of the appeal process available to them. The mental health agency shall have two working days within which to complete any internal appeal process. Within five working days after the mental health agency's final denial or recommendation for discharge, a parent or guardian may request an objective third party at the state department who is a professional person, as that term is defined in section 27-65-102 (17), to review the action of the mental health agency. The review shall occur within three working days of the parent's or guardian's request.

(2) If at any time the mental health agency determines pursuant to section 19-3-304, C.R.S., that there is reasonable cause to know or suspect that a child has been subjected to abuse or neglect, then the mental health agency shall immediately contact the appropriate county department. Within ten days after the referral to the county department, the mental health agency shall meet with the county department and the family. Upon referral to the county department,

the county department shall proceed with an assessment to determine whether there is a sufficient basis to believe that physical or sexual abuse or neglect or some other form of abuse or neglect of a child's physical well-being has occurred, warranting a dependency or neglect action.

**27-67-105. Monitoring - report.** (1) On or before September 1, 2009, and by September 1 of each year thereafter, each community mental health center shall report to the state department the following information, and each behavioral health organization, for those children eligible to receive medicaid benefits whose parent or legal guardian requests residential treatment, shall report to the department of health care policy and financing the following information:

(a) The number of children, both those children who are categorically eligible for medicaid under the capitated mental health system described in section 25.5-5-411, C.R.S., and those children who are at risk of out-of-home placement, to whom the following services were provided:

(I) An assessment pursuant to section 27-67-104 (1) (a);

(II) In-home family mental health treatment;

(III) Community-based treatment, including but not limited to therapeutic foster care services;

(IV) Family preservation services;

(V) Residential treatment; and

(VI) Post-residential follow-up services;

(b) The number of children, both those children who are categorically eligible for medicaid under the capitated mental health system described in section 25.5-5-411, C.R.S., and those children who are at risk of out-of-home placement, referred to the county department for a dependency or neglect investigation pursuant to section 27-67-104 (2), and the reasons therefor;

(c) The number of children for whom either:

(I) An assessment was requested but not performed, and the reasons that the assessment was not performed; or

(II) An assessment was performed but the mental health agency did not provide services under this article, and the reasons that services were not provided, including whether the family refused the services offered;

(d) The costs associated with the provision of the mental health treatment services;

(e) The profiles of the children and families served;

(f) The outcomes of treatment for the children served, as determined by the state department in consultation with mental health agencies, service providers, and families;

(g) If residential services were provided, the length of stay; and

(h) The aggregate number of complaints submitted pursuant to the dispute resolution process described in section 27-67-107, the nature of the complaints, and the general disposition of the cases.

(2) On or before October 1, 2009, and on or before October 1 of each year thereafter, the department of health care policy and financing shall provide to the state department the

information received from behavioral health organizations pursuant to subsection (1) of this section.

**27-67-106. Funding - rules.** (1) In order to make mental health treatment available, it is the intent of the general assembly that mental health treatment provided pursuant to this article to each child described in section 27-67-103 (2) be provided by mental health agencies.

(2) (a) If neither the family's private insurance nor federal medicaid funding cover all of the costs associated with the services provided to a child at risk of out-of-home placement pursuant to this article, then the family shall be responsible for paying that portion that is not covered by private insurance or federal medicaid funding on a sliding scale basis as set forth in subsection (3) of this section. Any remaining portion of the services not covered by private insurance, federal medicaid funding, or the family's share, shall be paid for from moneys appropriated for such purpose pursuant to paragraph (b) of this subsection (2) or from general fund moneys, subject to available appropriations.

(b) Pursuant to section 24-75-1104.5 (1) (k), C.R.S., beginning in the 2004-05 fiscal year, and for each fiscal year thereafter so long as the state receives moneys pursuant to the master settlement agreement, the general assembly shall appropriate to the state department to fund the remaining portion of services not covered by private insurance, federal medicaid funding, or the family's share, as described in paragraph (a) of this subsection (2), three hundred thousand dollars from the moneys received by the state in accordance with the master settlement agreement for the preceding fiscal year. The general assembly shall appropriate the amount specified in this paragraph (b) from moneys credited to the tobacco litigation settlement cash fund created in section 24-22-115, C.R.S.

(3) The state board of human services, in consultation with the department of health care policy and financing, shall promulgate rules implementing a sliding scale for the payment of services, including mental health treatment and room and board, that are not covered by private insurance or federal medicaid funding. It is the intent of the general assembly that the portion of such expenses paid from general fund moneys shall not exceed the general fund appropriations made for such purpose in any given fiscal year. It is the further intent of the general assembly that subsidies provided by the state through general fund moneys shall be used to assist the lowest income families to ensure the maximum use of appropriate least restrictive treatment services and to provide access to the greatest number of children.

**27-67-107. Dispute resolution - rules.** (1) The state department shall utilize, when appropriate, established grievance and dispute resolution processes in order to assure that parents have access to mental health services on behalf of their children.

(2) The state board of human services shall promulgate rules to assure that a grievance process is available to parents concerning the provision of mental health services and to assure that a dispute resolution process is available for disputes between the county departments and mental health agencies.

**27-67-108. Repeal of article.** This article is repealed, effective July 1, 2019.

## ARTICLE 68

Mental Health Services Pilot Program for Families
of Discharged Veterans of Operation Enduring Freedom
and Operation Iraqi Freedom

**27-68-101 to 27-68-106. (Repealed)**

## ARTICLE 69

Family Advocacy Mental Health
Juvenile Justice Programs

**27-69-101. Legislative declaration.** (1) The general assembly hereby finds and declares that:

(a) Colorado families and youth have difficulties navigating the mental health, physical health, substance abuse, developmental disabilities, education, juvenile justice, child welfare, and other state and local systems that are compounded when the youth has a mental illness or co-occurring disorder;

(b) Preliminary research demonstrates that family advocates and family systems navigators increase family and youth satisfaction, improve family participation, and improve services to help youth and families succeed and achieve positive outcomes. One preliminary study in Colorado found that the wide array of useful characteristics and valued roles performed by family advocates and family systems navigators, regardless of where they are located institutionally, provided evidence for continuing and expanding the use of family advocates and family systems navigators in systems of care.

(c) Input from families, youth, and state and local community agency representatives in Colorado demonstrates that family advocates and family systems navigators help families get the services and support they need and want, help families to better navigate complex state and local systems, improve family and youth outcomes, and help disengaged families and youth to become engaged families and youth;

(d) State and local agencies and systems need to develop more strengths-based, family-

centered, individualized, culturally competent, and collaborative approaches that better meet the needs of families and youth;

(e) A family advocate or a family systems navigator helps state and local agencies and systems adopt more strengths-based-targeted programs, policies, and services to better meet the needs of families and their youth with mental illness or co-occurring disorders and improve outcomes for all, including families, youth, and the agencies they utilize;

(f) The use of family advocates or family systems navigators as full partners in systems of care is a relatively new approach to helping meet the needs of families and youth in the state. It is essential that communities have the support to implement and sustain programs in a manner that best meets the needs of youth, families, and communities.

(2) It is therefore in the state's best interest to develop rules and standards and provide technical assistance and coordination for the family advocacy mental health juvenile justice programs for system-of-care family advocates and family systems navigators for mental health juvenile justice populations who navigate across mental health, physical health, substance abuse, developmental disabilities, juvenile justice, education, child welfare, and other state and local systems to ensure sustained and thoughtful family participation in the planning processes of the care for their children and youth.

**27-69-102. Definitions.** As used in this article, unless the context otherwise requires:

(1) "Co-occurring disorders" means disorders that commonly coincide with mental illness and may include, but are not limited to, substance abuse, developmental disabilities, fetal alcohol syndrome, and traumatic brain injury.

(2) and (3) Repealed.

(4) "Family advocacy coalition" means a coalition of family advocates, family systems navigators, or family advocacy organizations working to help families and youth with mental health problems, substance abuse, developmental disabilities, and other co-occurring disorders to improve services and outcomes for youth and families and to work with and enhance state and local systems.

(5) "Family advocate" means a parent or primary caregiver who:

(a) Has been trained in a system-of-care approach to assist families in accessing and receiving services and supports;

(b) Has raised or cared for a child or adolescent with a mental health or co-occurring disorder; and

(c) Has worked with multiple agencies and providers, such as mental health, physical health, substance abuse, juvenile justice, developmental disabilities, education, and other state and local service systems.

(5.5) "Family systems navigator" means an individual who:

(a) Has been trained in a system-of-care approach to assist families in accessing and receiving services and supports;

(b) Has the skills, experience, and knowledge to work with children and youth with mental health or co-occurring disorders; and

(c) Has worked with multiple agencies and providers, including mental health, physical

health, substance abuse, juvenile justice, developmental disabilities, education, and other state and local service systems.

(6) Repealed.

(7) "Partnership" means a relationship between a family advocacy organization and another entity whereby the family advocacy organization works directly with another entity for oversight and management of the family advocate or family systems navigator and family advocacy demonstration program, and the family advocacy organization employs, supervises, mentors, and provides training to the family advocate or family systems navigator.

(8) "System of care" means an integrated network of community-based services and support that is organized to meet the challenges of youth with complex needs, including, but not limited to, the need for substantial services to address areas of developmental, physical, and mental health, substance abuse, child welfare, and education and involvement in or being at risk of involvement with the juvenile justice system. In a system of care, families and youth work in partnership with public and private organizations to build on the strengths of individuals and to address each person's cultural and linguistic needs so services and support are effective.

(9) Repealed.

(10) "Unit" means the unit in the department of human services that administers behavioral health programs and services, including those related to mental health and substance abuse.

**27-69-103. Programs established.** There are hereby established family advocacy mental health juvenile justice programs for system-of-care family advocates and family systems navigators for mental health juvenile justice populations that shall be implemented and monitored by the unit, with input, cooperation, and support from the division of criminal justice, created in section 24-33.5-502, C.R.S., the task force, created in section 18-1.9-104, C.R.S., and family advocacy coalitions.

**27-69-104. Program scope - rules.** (1) The unit shall promulgate rules and standards, after consultation with family advocacy coalitions and other stakeholders, for family advocacy mental health juvenile justice programs for system-of-care family advocates and family systems navigators for mental health juvenile justice populations. The programs shall:

(a) Focus on youth with mental illness or co-occurring disorders who are involved in or at risk of involvement with the juvenile justice system and be based upon the families' and youths' strengths; and

(b) Provide navigation, crisis response, integrated planning, transition services, and diversion from the juvenile justice system for youth with mental illness or co-occurring disorders.

(2) The unit shall provide technical assistance and coordination of family advocacy mental health juvenile justice programs throughout the state that provide system-of-care family advocates and family systems navigators for mental health juvenile justice populations with support to implement and sustain programs that best meet the needs of youth, families, and communities.

(3) Key components of the family advocacy mental health juvenile justice programs for system-of-care family advocates and family systems navigators for mental health juvenile justice populations shall include:

(a) Coordination with the key stakeholders involved in the local community to ensure consistent and effective collaboration. This collaboration may include, but need not be limited to, a family advocacy organization, representatives of the juvenile court, the probation department, the district attorney's office, the public defender's office, a school district, the division of youth corrections within the department of human services, a county department of social or human services, a local community mental health center, and a regional behavioral health organization and may include representatives of a local law enforcement agency, a county public health department, a substance abuse program, a community centered board, a local juvenile services planning committee, and other community partners;

(b) Services to youth with mental illness or co-occurring disorders who are involved in or at risk of involvement with the juvenile justice system and other state and local systems;

(c) Policies concerning the work of family advocates or family systems navigators that include:

(I) Experience and hiring requirements;

(II) The provision of appropriate training; and

(III) A definition of roles and responsibilities; and

(d) Services provided by system-of-care family advocates or family systems navigators for mental health juvenile justice populations, which services shall include:

(I) Strengths, needs, and cultural assessment;

(II) Navigation and support services;

(III) Education programs related to mental illness, co-occurring disorders, youth and family involvement in the system of care, the juvenile justice system, and other relevant systems;

(IV) Cooperative training programs for family advocates or family systems navigators and for staff, where applicable, of mental health, physical health, substance abuse, developmental disabilities, education, child welfare, juvenile justice, and other state and local systems related to the role and partnership between the family advocates or family systems navigators and the systems that affect youth and their family;

(V) Integrated crisis response services and crisis and transition planning;

(VI) Access to diversion and other services to improve outcomes for youth and their families;

(VII) Other services as determined by the local community; and

(VIII) Coordination with the local community mental health center.

(e) and (f) (Deleted by amendment, L. 2011, (HB 11-1193), ch. 71, p. 194, § 4, effective March 29, 2011.)

(4) to (6) (Deleted by amendment, L. 2011, (HB 11-1193), ch. 71, p. 194, § 4, effective March 29, 2011.)

**27-69-105. Evaluation and reporting.**

(1) and (2) (Deleted by amendment, L. 2011, (HB 11-1193), ch. 71, p. 197, § 5, effective March 29, 2011.)

(3) As determined by the unit, in consultation with family advocacy programs, each integrated system-of-care family advocacy program for mental health juvenile justice populations shall forward data to the unit, including:

(a) System utilization outcomes, including, but not limited to, available data on services provided related to mental health, physical health, juvenile justice, developmental disabilities, substance abuse, child welfare, traumatic brain injuries, school services, and co-occurring disorders;

(b) Youth and family outcomes, related to, but not limited to, mental health, substance abuse, developmental disabilities, juvenile justice, and traumatic brain injury issues;

(c) Family and youth satisfaction and assessment of family advocates or family systems navigators;

(d) Process and leadership outcomes, including, but not limited to, measures of partnerships, service processes and practices among partnering agencies, leadership indicators, and shared responses to resources and outcomes; and

(e) Other outcomes, including, but not limited to, identification of the cost avoidance or cost savings, if any, achieved by the demonstration program, the applicable outcomes achieved, the transition services provided, and the service utilization time frames.

(4) to (7) (Deleted by amendment, L. 2011, (HB 11-1193), ch. 71, p. 197, § 5, effective March 29, 2011.)

**27-69-106. Repeal of article.** This article is repealed, effective July 1, 2021.

## ALCOHOL AND DRUG ABUSE

## ARTICLE 80

Alcohol and Drug Abuse

PART 1

PROGRAMS AND SERVICES

**27-80-101. Definitions.** As used in this article, unless the context otherwise requires:

(1) "Department" means the department of human services created in section 26-1-105,

C.R.S.

(2) "Designated service area" means the geographical substate planning area specified by the director of the unit to be served by a designated managed service organization, as described in section 27-80-107.

(3) "Executive director" means the executive director of the department of human services.

(4) "Fetal alcohol spectrum disorder" or "FASD" means a continuum of permanent birth defects caused by maternal consumption of alcohol during pregnancy. "FASD" includes, but is not limited to, fetal alcohol syndrome.

(5) "Public program" means a program concerning the problems of alcohol or drug abuse sponsored by a county, district, or municipal public health agency, county department of social services, court, probation department, law enforcement agency, school, school system, board of cooperative services, Indian tribal reservation, or state agency. "Public program" includes any alcohol or drug abuse treatment program required as a condition of probation under part 2 of article 11 of title 16, C.R.S., any alcohol or drug abuse program administered by the division of adult parole under article 2 of title 17, C.R.S., any community correctional facility or program administered under article 27 of title 17, C.R.S., and any alcohol or drug abuse treatment program administered by the division of youth corrections under title 19, C.R.S.

(6) "Unit" means the unit in the department that administers behavioral health programs and services, including those related to mental health and substance abuse.

(7) Repealed.

**27-80-102. Duties of the unit.** (1) The unit shall formulate a comprehensive state plan for alcohol and drug abuse programs. The state plan shall be submitted to the governor and, upon his or her approval, shall be submitted to the appropriate United States agency for review and approval. The state plan shall include, but not be limited to:

(a) A survey of the need for the prevention and treatment of alcohol and drug abuse, including a survey of the health facilities needed to provide services and a plan for the development and distribution of facilities and programs throughout the state;

(b) A plan for programs to educate the public in the problems of alcohol and drug abuse;

(c) A survey of the need for trained teachers, health professionals, and others involved in the prevention and treatment of alcohol and drug abuse and the rehabilitation of abusers, and a plan to provide the necessary training for such persons;

(d) Provisions for the periodic review and updating of the state plan, which shall take place at least annually.

(2) The department, acting by and through the unit, is designated as the sole state agency for the supervision of the administration of the state plan.

**27-80-103. Grants for public programs.** (1) The unit may make grants, from funds appropriated by the general assembly for purposes of this section or available from any other governmental or private source, to approved public programs.

(2) A public program may provide, but need not be limited to, any of the following:

(a) Acute medical services, including emergency services and detoxification;

(b) Case finding, diagnosis, treatment, counseling, individual or group psychotherapy, after-care treatment, and other rehabilitation services;

(c) Education and counseling regarding the use and abuse of alcohol and drugs;

(d) Programs for prevention of alcohol and drug abuse;

(e) Training of teachers, health professionals, and others in the field of alcohol and drug abuse and addiction counseling;

(f) Coordination of existing services and the development of other needed services through demonstration and evaluation projects; or

(g) Services to pregnant women who are alcohol and drug dependent through demonstration and evaluation projects.

(3) In approving any public program, the unit shall take into consideration the following:

(a) The community need for the public program;

(b) The range of services to be provided;

(c) The integration of the public program with, and the participation of, other public and nongovernmental agencies, organizations, institutions, and individuals, and their services and facilities, if any, that are available to assist the public program;

(d) The adequacy of the public program to accomplish its purposes; and

(e) Such other information as the unit deems necessary.

(4) Applications for grants made under subsection (1) of this section shall be made to the unit, on forms furnished by the unit, and shall contain such information as the unit may require. Wherever possible, the unit shall give priority to those public programs which are community-based and include services to children and juveniles as well as adults, that provide a comprehensive range of services, and that evidence a high degree of community support, either financial or in the furnishing of services and facilities, or both.

(5) Whenever any department or agency of the state has moneys available from any source for public programs, such department or agency is authorized to distribute the moneys in accordance with the state plan and to make reasonable rules for the administration of such public programs.

**27-80-104. Cancellation of grants.** (1) The unit may cancel any grant for any public program for any of the following reasons:

(a) There is no longer a need for the public program.

(b) Funds for the public program are not available.

(c) The public program does not meet the standards or requirements adopted by the department or does not conform to the comprehensive state plan for alcohol and drug abuse programs.

(2) Before canceling a grant for the reasons set forth in paragraph (c) of subsection (1) of this section, the unit shall notify the person or agency in charge of the public program of the deficiency in the program, and such person or agency shall be given a reasonable amount of time within which to correct the deficiency.

**27-80-105. Annual distribution of funds.** Funds for public programs shall be distributed annually, if available.

**27-80-106. Purchase of prevention and treatment services.** (1) Using funds appropriated for purposes of this section or available from any other governmental or private source, the unit may purchase services for prevention or for treatment of alcohol and drug abuse or both types of services on a contract basis from any tribal nation or any public or private agency, organization, or institution approved by the unit. The services purchased may be any of those which may be provided through a public program, as set forth in section 27-80-103 (2). In contracting for services, the unit shall attempt to obtain services that are in addition to, and not a duplication of, existing available services or services that are of a pilot or demonstration nature. Any agency operating a public program may also purchase such services on a contract basis.

(2) (a) In addition to the services purchased pursuant to subsection (1) of this section, using funds appropriated for purposes of this section or available from any other governmental or private source, the unit may purchase services for the treatment of alcohol and drug abuse on a contract basis from a designated managed service organization for a designated service area as set forth in section 27-80-107. A public or private agency, organization, or institution approved by the unit through the process set forth in section 27-80-107 may be designated as a designated managed service organization.

(b) Designated managed service organizations receiving funds pursuant to this subsection (2) shall comply with all relevant provisions of this article and the rules promulgated thereunder.

**27-80-107. Designation of managed service organizations - purchase of services - revocation of designation.** (1) The director of the unit shall establish designated service areas for the provision of treatment services for alcohol and drug abuse in a particular geographical region of the state.

(2) In order to be selected as a designated managed service organization to provide services in a particular designated service area, a private corporation, for profit or not for profit, or a public agency, organization, or institution shall apply to the unit for such designation in the form and manner specified by the executive director or the executive director's designee. Such designation process shall be in lieu of a competitive bid process under the "Procurement Code", articles 101 to 112 of title 24, C.R.S. The director of the unit shall make the designation based on factors established by the executive director or the executive director's designee. The factors for designation established by the executive director or the executive director's designee shall include, but shall not be limited to, the following:

(a) Whether the managed service organization has experience working with public treatment agencies and collaborating with other public agencies;

(b) Whether the managed service organization has experience working with publicly funded clients, including expertise in treating priority populations designated by the unit;

(c) Whether the managed service organization has offices in and provides services in the substate planning area or is willing to relocate to the substate planning area;

(d) Whether the managed service organization has experience using the cost-share principles used by the unit in its contracts with providers and is willing to cost-share;

(e) Whether the managed service organization has developed an effective, integrated information and fiscal reporting system and has experience working with and is able to comply with state and federal reporting requirements;

(f) Whether the managed service organization has experience engaging in a clinical quality improvement process; and

(g) Whether the managed service organization has experience with public funding requirements and state contracting requirements.

(3) The designation of a managed service organization by the director of the unit as described in subsection (2) of this section shall be considered an initial decision of the department which may be reviewed by the executive director in accordance with the provisions of section 24-4-105, C.R.S. Review by the executive director in accordance with section 24-4-105, C.R.S., shall constitute final agency action for purposes of judicial review.

(4) The terms and conditions for providing treatment services shall be specified in the contract entered into between the unit and the designated managed service organization.

(5) The contract may include a provisional designation for ninety days. At the conclusion of the ninety-day provisional period, the director of the unit may choose to revoke the contract or, subject to meeting the terms and conditions specified in the contract, may choose to extend the contract for a stated time period.

(6) A managed service organization that is designated to serve a designated service area may subcontract with a network of service providers to provide treatment services for alcohol and drug abuse within the particular designated service area.

(7) (a) The director of the unit may revoke the designation of a designated managed service organization upon a finding that the managed service organization is in violation of the performance of the provisions of this article or the rules promulgated thereunder. Such revocation shall conform to the provisions and procedures specified in article 4 of title 24, C.R.S., and shall be made only after notice and an opportunity for a hearing is provided as specified in that article. A hearing to revoke a designation as a designated managed service organization shall constitute final agency action for purposes of judicial review.

(b) Once a designation has been revoked pursuant to paragraph (a) of this subsection (7), the director of the unit may designate one or more service providers to provide the treatment services pending designation of a new designated managed service organization or may enter into contracts with subcontractors to provide the treatment services.

(c) From time to time, the director of the unit may solicit applications from applicants for managed service organization designation to provide treatment services for a specified planning area or areas.

**27-80-108. Rules.** (1) The state board of human services, created in section 26-1-107, C.R.S., has the power to promulgate rules governing the provisions of this article. Such rules

may include, but shall not be limited to:

(a) Requirements to be met in the operation of a public program, including record keeping and data compilation;

(b) Conditions that may be imposed on a public program in order for the program to maintain eligibility for a grant;

(c) Requirements for public and private agencies, organizations, and institutions from which the unit may purchase services under section 27-80-106 (1);

(d) Requirements for managed service organizations that are designated by the director of the unit to provide services in a designated service area under section 27-80-106 (2);

(e) Standards that must be met by addiction counselors to participate in public programs or to provide purchased services and certification requirements necessary to be certified by the director of the division of professions and occupations, pursuant to part 8 of article 43 of title 12, C.R.S.;

(f) Any rules that are necessary to carry out the purposes of the treatment program for high-risk pregnant women that is created pursuant to section 27-80-112.

**27-80-109. Coordination of state and federal funds and programs.** (1) All requests for state appropriations for alcohol and drug abuse programs shall be submitted to the unit and the office of state planning and budgeting on dates specified by the unit consistent with requirements and procedures of the office of state planning and budgeting. After studying each request, the unit shall make a report thereon, with its comments and recommendations, including priorities for appropriations and a statement as to whether the requested appropriation would be consistent with the comprehensive state plan for alcohol and drug abuse programs. The reports of the unit shall be submitted to the governor, the office of state planning and budgeting, and the joint budget committee, together with all pertinent material on which the recommendations of the unit are based.

(2) The unit shall also review applications for federal grants for alcohol and drug abuse programs submitted by any department or agency of state government, by any political subdivision of the state, by any Indian tribal reservation, or by any other public or private agency, organization, or institution. The unit shall transmit to the division of planning and to the appropriate United States agency its comments and recommendations, together with a statement as to whether the grant would be consistent with the comprehensive state plan for alcohol and drug abuse programs.

**27-80-110. Reports.** The unit shall submit a report not later than November 1 of each year to the health and human services committees of the senate and house of representatives, or any successor committees, on the costs and effectiveness of alcohol and drug abuse programs in this state and on recommended legislation in the field of alcohol and drug abuse.

**27-80-111. Counselor training - fund created.** (1) The executive director shall

establish by rule fees to be charged for addiction counselor training. The amount assessed shall be sufficient to cover a portion of the costs of administering such training, and the moneys collected therefor shall be deposited in the addiction counselor training fund. Additional funding may be obtained from general, cash, or federal funds otherwise appropriated to the unit.

(2) There is hereby created in the office of the state treasurer the addiction counselor training fund. Moneys collected pursuant to subsection (1) of this section shall be deposited in the fund. The moneys in the fund shall be subject to annual appropriation by the general assembly to the department for allocation to the unit for the administration of addiction counselor training requirements established by rules of the state board of human services pursuant to section 27-80-108 (1) (e). Moneys in the fund at the end of the fiscal year shall remain in the fund and shall not revert to the general fund.

**27-80-112. Legislative declaration - treatment program for high-risk pregnant women - creation.** (1) The general assembly hereby finds and declares that the health and well-being of the women of Colorado is at risk; that such women are at risk of poor birth outcomes or physical and other disabilities due to substance abuse, which is the abuse of alcohol and drugs, during the prenatal period; that early identification of such high-risk pregnant women and substance abuse treatment greatly reduce the occurrence of poor birth outcomes; and that the citizens of Colorado will greatly benefit from a program to reduce poor birth outcomes and subsequent problems resulting from such poor birth outcomes in cases involving high-risk pregnant women through the cost savings envisioned by the prevention and early treatment of such problems.

(2) In recognition of such problems, there is hereby created a treatment program for high-risk pregnant women.

**27-80-113. Alcohol and drug and addiction counseling and treatment - necessary components.** Any entity that qualifies to provide services pursuant to section 25.5-5-202 (1) (r), C.R.S., in regard to the treatment program for high-risk pregnant women, shall make available, in addition to alcohol and drug and addiction counseling and treatment: Risk assessment services; care coordination; nutrition assessment; psychosocial counseling; intensive health education, including but not limited to parenting education and education on risk factors and appropriate health behaviors; home visits; transportation services; and other services deemed necessary by the unit and the department of health care policy and financing.

**27-80-114. Treatment program for high-risk pregnant women - cooperation with private entities.** The department of health care policy and financing shall cooperate with any private entities that desire to assist the department of health care policy and financing in the provision of services connected with the treatment program for high-risk pregnant women. Private entities may provide services that are not provided to persons pursuant to the treatment program for high-risk pregnant women, article 2 of title 26, C.R.S., and articles 4, 5, and 6 of title

25.5, C.R.S., which may include, but shall not be limited to, needs assessment services, preventive services, rehabilitative services, care coordination, nutrition assessment, psychosocial counseling, intensive health education, home visits, transportation, development of provider training, child care, and other necessary components of residential or outpatient treatment or care.

**27-80-115. Treatment program for high-risk pregnant women - data collection.** The department of health care policy and financing shall create a data collection mechanism regarding persons receiving services pursuant to the treatment program for high-risk pregnant women, which shall include the collection of data on cost-effectiveness, success of the program, and other data the department of health care policy and financing deems appropriate.

**27-80-116. Fetal alcohol spectrum disorders - legislative declaration - health warning signs - commission - repeal.** (1) The general assembly hereby finds and declares that:

(a) Fetal alcohol exposure is the leading known cause of preventable intellectual and developmental disabilities and birth defects in the children of this state;

(b) Individuals with undiagnosed fetal alcohol spectrum disorders suffer substantially from secondary issues such as child abuse and neglect, separation from families, multiple foster placements, depression, aggression, school failure, juvenile detention, and job instability;

(b.5) Compared to individuals diagnosed before age twelve, individuals with undiagnosed FASD are two to four times more likely to suffer from inappropriate sexual behavior, disrupted school experiences, trouble with the law, drug and alcohol problems, or confinement in a jail, mental hospital, or drug and alcohol treatment facility;

(c) These secondary disabilities come at a high cost to individuals, their families, and society;

(d) A survey performed in 2006 by the Colorado pregnancy risk assessment system estimated that eleven and two-tenths percent of women in Colorado said that they drank alcohol during the last three months of their pregnancy; and

(e) The commission should evaluate the current use and distribution of written and electronic informational materials designed to increase awareness of the consequences of drinking alcohol while pregnant and should investigate additional means by which such written and electronic materials might best be used.

(2) The general assembly therefore declares that fetal alcohol exposure and its related problems can be reduced substantially by a greater awareness of the consequences of drinking alcohol while pregnant and by early diagnosis and receipt of appropriate and effective intervention.

(3) Each person licensed pursuant to section 12-47-401 (1) (h) to (1) (t), C.R.S., to sell malt, vinous, and spirituous liquors or licensed pursuant to section 12-46-104 (1) (c), C.R.S., to sell fermented malt beverages is hereby encouraged to post a health warning sign pursuant to paragraph (c) of subsection (4) of this section, informing patrons that the consumption of alcohol during pregnancy may cause birth defects, including fetal alcohol spectrum disorders.

(4) (a) There is hereby created the fetal alcohol spectrum disorders commission, referred

to in this section as the "commission". The commission is created as a temporary commission under section 22 of article IV of the state constitution. The commission shall be composed of no more than twelve members. On or before August 30, 2009, the executive director, in consultation with a nonprofit organization that works with FASD issues, shall appoint the commission members with the goal of selecting a broad representation of individuals working in the field of FASD. The commission shall include representation from the following areas and groups in any combination the executive director deems appropriate:

(I) Pediatrics;

(II) Family physicians;

(III) Child development programs that work with special needs children;

(IV) The department of public health and environment;

(V) The juvenile justice system;

(VI) Preschool, elementary, secondary, and higher education;

(VII) Parents, foster parents, or legal guardians of children or adults affected by FASD;

(VIII) The developmentally disabled community;

(IX) Speech, language, and occupational therapy;

(X) The department of education; and

(XI) A representative of a trade association that represents licensed beverage retailers in Colorado.

(b) The commission shall meet at least once on or before September 30, 2009. At its first meeting, the commission shall elect by a majority vote a chairperson from among the commission members who shall act as the presiding officer of the commission, determine a meeting schedule, and develop a list of priorities. Commission members shall serve without compensation or reimbursement of expenses.

(c) The commission shall develop a health warning sign and other informational materials for use by persons licensed pursuant to section 12-47-401 (1) (h) to (1) (t), C.R.S., to sell malt, vinous, and spirituous liquors or licensed pursuant to section 12-46-104 (1) (c), C.R.S., to sell fermented malt beverages and a plan for making the sign and other informational materials available on-line to such licensed persons and other interested parties. At a minimum, the health warning sign shall read as follows:

HEALTH WARNING
DRINKING ANY ALCOHOLIC BEVERAGE DURING
PREGNANCY MAY CAUSE BIRTH DEFECTS.

(d) On or before December 1, 2009, and as needed thereafter, the commission shall make recommendations to the unit and to the health and human services committees of the senate and the house of representatives, or any successor committees. The commission's recommendations shall address the prevention of and education about FASD and any other FASD-related issues. The commission shall evaluate the use of the health warning signs developed pursuant to paragraph (c) of this subsection (4), the response by licensed persons, as described in paragraph (c) of this subsection (4), to the signs, and the response by women and patrons to the signs. The

commission shall make recommendations to the unit and to the health and human services committees of the senate and the house of representatives, or any successor committees, on the most effective use of the warning signs and shall also recommend the most effective use of other written and electronic informational materials in the future.

(e) This subsection (4) is repealed, effective June 30, 2015.

**27-80-117. Rural alcohol and substance abuse prevention and treatment program - creation - administration - definitions - cash fund - repeal.** (1) As used in this section, unless the context otherwise requires:

(a) "Program" means the rural alcohol and substance abuse prevention and treatment program created pursuant to subsection (2) of this section that shall consist of the rural youth alcohol and substance abuse prevention and treatment project and the rural detoxification project.

(b) "Rural area" means a county with a population of less than thirty thousand people, according to the most recently available population statistics of the United States bureau of the census.

(c) "Youth" means an individual who is at least eight years of age but who is less than eighteen years of age.

(2) (a) (I) There is hereby created the rural alcohol and substance abuse prevention and treatment program within the unit to provide:

(A) Prevention and treatment services to youth in rural areas, which services may include but need not be limited to providing alternative activities for youth through the rural youth alcohol and substance abuse prevention and treatment project; and

(B) Treatment services to persons addicted to alcohol or drugs through the rural detoxification project.

(II) The unit shall administer the program pursuant to rules adopted by the state board of human services as of January 1, 2010, or as amended by the state board thereafter.

(b) The unit shall incorporate provisions to implement the program into its regular contracting mechanism for the purchase of prevention and treatment services pursuant to section 27-80-106, including but not limited to detoxification programs. The unit shall develop a method to equitably distribute and provide additional moneys through contracts to provide for prevention services for and treatment of persons in rural areas.

(c) Notwithstanding any provision of this section to the contrary, the unit shall implement the program on or after January 1, 2011, subject to the availability of sufficient moneys to operate an effective program, as determined by the unit.

(3) (a) There is hereby created in the state treasury the rural alcohol and substance abuse cash fund, referred to in this section as the "fund", that shall consist of the rural youth alcohol and substance abuse prevention and treatment account, referred to in this section as the "youth account", and the rural detoxification account, referred to in this section as the "detoxification account". The fund shall be comprised of moneys collected from surcharges assessed pursuant to sections 18-19-103.5, 42-4-1307 (10) (d) (I), and 42-4-1701 (4) (f), C.R.S., which moneys shall be divided equally between the youth account and the detoxification account, and any moneys credited to the fund pursuant to paragraph (b) of this subsection (3), which moneys shall be

divided equally between the youth account and the detoxification account unless the grantee or donor specifies to which account the grant, gift, or donation shall be credited. The moneys in the fund shall be subject to annual appropriation by the general assembly to the unit for the purpose of implementing the program. All interest derived from the deposit and investment of moneys in the fund shall remain in the fund. Any unexpended or unencumbered moneys remaining in the fund at the end of a fiscal year shall remain in the fund and shall not be transferred or credited to the general fund or another fund; except that any unexpended and unencumbered moneys remaining in the fund as of June 30, 2016, shall be credited to the general fund.

(b) The unit is authorized to accept any grants, gifts, or donations from any private or public source on behalf of the state for the purpose of the program. The unit shall transmit all private and public moneys received through grants, gifts, or donations to the state treasurer, who shall credit the same to the fund.

(4) (a) This section is repealed, effective July 1, 2016.

(b) Prior to such repeal, the program shall be reviewed as provided in section 24-34-104, C.R.S.

## PART 2

## CONTROLLED SUBSTANCES

**27-80-201. Short title.** This part 2 shall be known and may be cited as the "Colorado Licensing of Controlled Substances Act".

**27-80-202. Legislative declaration.** The general assembly finds, determines, and declares that strict control of controlled substances within this state is necessary for the immediate and future preservation of the public peace, health, and safety and that the licensing, record-keeping, penalty, and other provisions contained in this part 2 are necessary for the achievement of such control.

**27-80-203. Definitions.** As used in this part 2, unless the context otherwise requires:

(1) "Addict" means a person who has a physical or psychological dependence on a controlled substance, which dependence develops following the use of the controlled substance on a periodic or continuing basis and is demonstrated by appropriate observation and tests by a person licensed to practice medicine pursuant to article 36 of title 12, C.R.S.

(2) "Addiction program" means a program licensed under this part 2 for the detoxification, withdrawal, or maintenance treatment of addicts.

(3) "Administer" means to apply a controlled substance, whether by injection, inhalation, ingestion, or any other means, directly to the body of a patient or research subject.

(4) "Agent" means an authorized person who acts on behalf of or at the direction of a person licensed or otherwise authorized under this part 2. "Agent" does not include a common or

contract carrier, a public warehouseman, or an employee of a carrier or warehouseman.

(5) "Bureau" means the drug enforcement administration, or its successor agency, of the United States department of justice.

(6) (a) "Compound" means to prepare, mix, assemble, package, or label a drug or device:

(I) As the result of a practitioner's prescription drug order, chart order, or initiative, based on the relationship between the practitioner, patient, and pharmacist in the course of professional practice; or

(II) For the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale or dispensing.

(b) "Compound" also includes the preparation of drugs or devices in anticipation of prescription drug orders based on routine, regularly observed prescribing patterns.

(7) "Controlled substance" shall have the same meaning as in section 18-18-102 (5), C.R.S.

(8) "Deliver" or "delivery" means actual, constructive, or attempted transfer of a controlled substance whether or not there is an agency relationship.

(9) "Detoxification treatment" means a program for a short term of not more than three weeks for the administering or dispensing, in decreasing doses, of a controlled substance to an addict while he or she is receiving appropriate supportive medical treatment, with the immediate goal being to render the addict no longer dependent on the intake of any amount of a controlled substance.

(10) "Device" means an instrument, apparatus, implement, machine, contrivance, implant, or similar or related article that is required under federal law to bear the label, "**Caution: federal law requires dispensing by or on the order of a physician.**" "Device" also includes any component part of, or accessory or attachment to, any such article, whether or not the component part, accessory, or attachment is separately so labeled.

(11) "Dispense" means to interpret, evaluate, and implement a prescription drug or controlled substances order or chart order, including the preparation of a drug or device for a patient or patient's agent in a suitable container appropriately labeled for subsequent administration to or use by a patient.

(12) "Distribute" means to deliver a controlled substance other than by administering or dispensing.

(13) (a) "Drug" means any of the substances:

(I) Recognized as drugs in the official United States pharmacopoeia, national formulary, or the official homeopathic pharmacopoeia of the United States, or a supplement thereof;

(II) Intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in individuals or animals;

(III) Other than food, intended to affect the structure or any function of the body of individuals or animals; or

(IV) Intended for use as a component of any substance specified in subparagraph (I), (II), or (III) of this paragraph (a).

(b) "Drug" does not include devices or their components, parts, or accessories.

(14) "Maintenance treatment" means a program of more than six months' duration for the

administering or dispensing of a controlled substance, approved for such use by federal law or regulation, to an addict for the purpose of continuing his or her dependence upon a controlled substance in the course of conducting an authorized rehabilitation program for addicts, with a long-term goal of decreasing the addict's controlled substance dependency and leading to his or her possible withdrawal.

(15) "Marijuana" means all parts of the plant cannabis sativa L., whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin. It does not include fiber produced from the stalks, oil or cake made from the seeds of the plant, or sterilized seed of the plant that is incapable of germination, if these items exist apart from any other item defined as "marijuana" in this subsection (15). "Marijuana" does not include marijuana concentrate as defined in subsection (16) of this section.

(16) "Marijuana concentrate" means hashish, tetrahydrocannabinols, or any alkaloid, salt, derivative, preparation, compound, or mixture, whether natural or synthesized, of tetrahydrocannabinols.

(17) "Peace officer" shall have the same meaning as set forth in section 16-2.5-101, C.R.S.

(18) "Person" means any individual, government, governmental subdivision, agency, business trust, estate, trust, partnership, corporation, association, institution, or other legal entity.

(19) "Peyote" means all parts of the plant presently classified botanically as lophophora williamsii lemaire, whether growing or not, the seeds thereof, any extraction from any part of such plant, and every compound, manufacture, salt, derivative, mixture, or preparation of such plant or its seeds or extracts.

(20) "Practitioner" means a person authorized by law to prescribe any drug or device, acting within the scope of such authority.

(21) "Prescription drug" means a drug that, prior to being dispensed or delivered, is required to be labeled with the following statement: "Caution: Federal law prohibits dispensing without a prescription.", "Rx only", or "Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian."

(22) "Production" or "produces" means the manufacturing, planting, cultivating, growing, or harvesting of a controlled substance.

(23) "Researcher" means any person licensed by the department pursuant to this part 2 to experiment with, study, or test any controlled substance within this state and includes analytical laboratories.

(24) (a) "Tetrahydrocannabinols" means synthetic equivalents of the substances contained in the plant, or in the resinous extractives of, cannabis, sp., or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity, such as the following:

(I) [1]cis or trans tetrahydrocannabinol, and their optical isomers;

(II) cis or trans tetrahydrocannabinol, and their optical isomers;

(III) [3,4]cis or trans tetrahydrocannabinol, and their optical isomers.

(b) Since the nomenclature of the substances listed in paragraph (a) of this subsection

(24) is not internationally standardized, compounds of these structures, regardless of the numerical designation of atomic positions, are included in this definition.

(25) "Withdrawal treatment" means a program for an intermediate term, of more than three weeks but less than six months, for the administering or dispensing, in decreasing doses, of a controlled substance, approved for such use by federal law or regulation, to an addict while receiving rehabilitative measures as indicated, with the immediate goal being to render the addict no longer dependent on the intake of any amount of a controlled substance.

**27-80-204. License required - controlled substances - repeal.** (1) (a) In accordance with part 3 of article 18 of title 18, C.R.S., an addiction program that compounds, administers, or dispenses a controlled substance shall annually obtain a license issued by the department for each place of business or professional practice located in this state.

(b) (I) This subsection (1) is repealed, effective September 1, 2019.

(II) Prior to the repeal, the department of regulatory agencies shall review the licensing functions of the department as provided in section 24-34-104, C.R.S. In conducting the review, the department of regulatory agencies shall consider whether the licensing pursuant to this subsection (1) should be combined with the licensing of any other drug and alcohol addiction treatment programs by the department.

(2) Persons licensed as required under this part 2, or otherwise licensed as required by federal law, may possess, distribute, dispense, administer, or conduct or do research with controlled substances only to the extent authorized by their licenses and in conformity with the provisions of this part 2 and with article 18 of title 18, C.R.S.

(3) An employee of a facility, as defined in section 25-1.5-301, C.R.S., who is administering and monitoring medications to persons under the care or jurisdiction of the facility pursuant to part 3 of article 1.5 of title 25, C.R.S., need not be licensed by the department to lawfully possess controlled substances under this part 2.

(4) A person who is required to be but is not yet licensed may apply for a license at any time. A person who is required to be licensed under this part 2 shall not engage in any activity for which a license is required until the department grants the person's application and issues a license to him or her.

(5) The department shall not issue a license under this part 2 to a researcher of marijuana or marijuana concentrate.

**27-80-205. Issuance of license - fees.** (1) The department, as provided in section 27-80-204 (1), shall issue the appropriate license to each researcher and addiction program meeting all the requirements of this part 2 unless it determines that the issuance of the license would be inconsistent with the public interest. In determining the public interest, the department shall consider the following factors:

(a) Maintenance of effective controls against diversion of controlled substances into illegitimate medical, scientific, or industrial channels;

(b) Compliance with applicable state and local laws;

(c) Any conviction of the applicant under any federal or state law relating to a controlled substance;

(d) Past experience in the manufacture or distribution of controlled substances and the existence in the applicant's establishment of effective controls against diversion;

(e) Any false or fraudulent information in an application filed under this part 2;

(f) Suspension or revocation of the applicant's federal registration to manufacture, distribute, or dispense a controlled substance as authorized by federal law; and

(g) Any other factors relevant to and consistent with the public peace, health, and safety.

(2) Issuance of a license under subsection (1) of this section does not entitle a licensee to distribute or professionally use controlled substances beyond the scope of the licensee's federal registration.

(3) (a) The initial and annual license fees are as follows:

(I) Repealed.

. . . . . (II) Researchers $ 25.00

(a.5) The department may administratively set initial and annual license fees for addiction programs to approximate the direct and indirect costs of the program.

(b) The department shall transmit the fees collected pursuant to this section to the state treasurer for deposit in the controlled substances program fund created in section 27-80-206.

(4) Any person who is licensed may apply for license renewal not more than sixty days before the expiration date of the license.

(5) The United States, the state of Colorado, or any political subdivision of the state is not required to pay any license fee required by this part 2.

**27-80-206. Controlled substances program fund - disposition of fees.** There is hereby created in the state treasury the controlled substances program fund. The department shall transmit all moneys it collects pursuant to this part 2 to the state treasurer, who shall credit the moneys to the controlled substances program fund. The general assembly shall make annual appropriations from the controlled substances program fund to the department for the purposes authorized by this part 2. All moneys credited to the controlled substances program fund and any interest earned on the fund remain in the fund and do not revert to the general fund or any other fund at the end of any fiscal year.

**27-80-207. Qualifications for license.** (1) An applicant for a license under this part 2 shall have adequate and proper facilities for the handling and storage of controlled substances and shall maintain proper control over the controlled substances to ensure the controlled substances are not illegally dispensed or distributed.

(2) Any person registered as a researcher by the federal government is presumed to possess the qualifications described in this section as long as his or her federal registration is valid.

(3) The department shall not grant a license to a person who has been convicted within

the last two years of a willful violation of this part 2 or any other state or federal law regulating controlled substances.

(4) Except for fees, compliance by a registrant with the provisions of the federal law respecting registration entitles the registrant to be licensed under this part 2.

**27-80-208. Denial, revocation, or suspension of license - other disciplinary actions.** (1) The department may deny, suspend, or revoke a license issued under this part 2 pursuant to article 4 of title 24, C.R.S., or take other disciplinary action as set forth in subsection (2.5) of this section, at the department's discretion, upon a finding that the licensee:

(a) Has furnished false or fraudulent information in an application filed under this part 2;

(b) Has been convicted of, or has had accepted by a court a plea of guilty or nolo contendere to, a felony under any state or federal law relating to a controlled substance;

(c) Has had his or her federal registration to manufacture, conduct research on, distribute, or dispense a controlled substance suspended or revoked; or

(d) Has violated any provision of this part 2 or the rules of the department or of the state board of human services created in section 26-1-107, C.R.S.

(2) The department may limit revocation or suspension of a license to the particular controlled substance that was the basis for revocation or suspension.

(2.5) If the department determines that a licensee has committed an act that would authorize the department to deny, revoke, or suspend a license, the department may, at its discretion, impose other disciplinary actions that may include, but need not be limited to, a fine not to exceed five hundred dollars, probation, or stipulation.

(3) If the department suspends or revokes a license, the department may place all controlled substances owned or possessed by the licensee at the time of the suspension or on the effective date of the revocation order under seal. The department may not dispose of substances under seal until the time for making an appeal has elapsed or until all appeals have been concluded, unless a court orders otherwise or orders the sale of any perishable controlled substances and the deposit of the proceeds with the court. When a revocation order becomes final, all controlled substances may be forfeited to the state.

(4) The department shall promptly notify the bureau and the appropriate professional licensing agency, if any, of all charges and the final disposition of the charges, and of all forfeitures of a controlled substance.

**27-80-209. Exemptions.** (1) The provisions of section 18-18-414, C.R.S., do not apply to:

(a) Agents of persons licensed under this part 2 or under part 3 of article 18 of title 18, C.R.S., acting within the provisions of their licenses; or

(b) Officers or employees of appropriate agencies of federal, state, or local governments acting pursuant to their official duties.

(2) All combination drugs that are exempted by regulation of the attorney general of the United States department of justice, pursuant to section 1006 (b) of Public Law 91-513 (84 Stat.

1236), known as the "Comprehensive Drug Abuse Prevention and Control Act of 1970", on or after July 1, 1981, are exempt from this part 2 and part 3 of article 18 of title 18, C.R.S.

(3) This part 2 does not apply to peyote if it is used in religious ceremonies of any bona fide religious organization.

(4) Section 27-80-210 does not apply to a practitioner authorized to prescribe any controlled substance that is listed in schedules III, IV, or V of part 2 of article 18 of title 18, C.R.S., and that is manufactured, received, or dispensed by the practitioner in the course of his or her professional practice, unless:

(a) The practitioner dispenses, other than by direct administration, a schedule III, IV, or V controlled substance to his or her patients, and the practitioner charges the patients either separately or together with charges for other professional services; or

(b) The practitioner regularly engages in dispensing a schedule III, IV, or V controlled substance to his or her patients.

(5) The exemptions set forth in this section are available as a defense to any person accused of violating section 18-18-414, C.R.S.

(6) The state is not required to negate any exemption or exception in this part 2 or in part 3 or 4 of article 18 of title 18, C.R.S., in any complaint, information, indictment, or other pleading or in any trial, hearing, or other proceeding under this part 2 or under part 4 of article 18 of title 18, C.R.S. The burden of proving an exemption or exception is upon the person claiming the exemption or exception.

**27-80-210. Records to be kept - order forms.** (1) Each person licensed or otherwise authorized under this part 2 or other laws of this state to manufacture, purchase, distribute, dispense, administer, store, or otherwise handle controlled substances shall keep and maintain separate detailed and accurate records and inventories relating to controlled substances and retain the records and inventories for a period of two years after the respective dates of the transactions as shown on the records and inventories.

(2) The record of any controlled substance distributed, administered, dispensed, or otherwise used must show the date the controlled substance was distributed, administered, dispensed, used, or otherwise disposed of, the name and address of the person to whom or for whose use the controlled substance was distributed, administered, dispensed, used, or otherwise disposed of, and the kind and quantity of the controlled substance.

(3) A person who maintains a record required by federal law that contains substantially the same information as set forth in subsections (1) and (2) of this section is deemed to comply with the record-keeping requirements of this part 2.

(4) A person required to maintain records pursuant to this section shall keep a record of any controlled substance lost, destroyed, or stolen, the kind and quantity of the controlled substance, and the date of the loss, destruction, or theft.

(5) A person licensed or otherwise authorized under this part 2 or other laws of this state shall distribute, administer, dispense, use, or otherwise dispose of controlled substances listed in schedule I or II of part 2 of article 18 of title 18, C.R.S., only pursuant to an order form. Compliance with the provisions of federal law respecting order forms is deemed compliance with

this section.

**27-80-211. Enforcement and cooperation.** (1) Each peace officer and district attorney in this state shall enforce this part 2 and shall cooperate with all agencies charged with the enforcement of the laws of this state, all other states, and the United States relating to controlled substances.

(2) The department shall cooperate with all agencies charged with the enforcement of the laws of this state, all other states, and the United States relating to controlled substances. To this end, the department shall:

(a) Arrange for the exchange of information among governmental officials concerning the use and abuse of controlled substances;

(b) Cooperate with the bureau and with local, state, and other federal agencies by maintaining a centralized unit to accept, catalogue, file, and collect statistics, including records of dependent and other controlled substance law offenders within the state, and make the information available for federal, state, and local law enforcement or regulatory purposes. The department shall not furnish the name or identity of a patient or research subject whose identity could not be obtained under section 27-80-212.

(c) Respond to referrals, complaints, or other information received regarding possible violations and, upon notification of the appropriate licensing authority, if applicable, and upon a written finding by the executive director of the department that probable cause exists to believe that there is illegal distribution or dispensing of controlled substances, to make any inspections, investigations, and reports that may be necessary to determine compliance with this part 2 by all licensed or otherwise authorized individuals who handle controlled substances;

(d) Cooperate with and make information available to appropriate state licensing and registration boards regarding any violations of this part 2 by persons licensed or registered by the boards;

(e) Enter into contracts and encourage and conduct educational and research activities designed to prevent and determine misuse and abuse of controlled substances.

**27-80-212. Records confidential.** Prescriptions, orders, and records required by this part 2 and stocks of controlled substances are open for inspection only to federal, state, county, and municipal officers whose duty it is to enforce the laws of this state or of the United States relating to controlled substances or the regulation of practitioners. No officer having knowledge, by virtue of his or her office, of a prescription, order, or record shall divulge his or her knowledge, except in connection with a prosecution or proceeding in court or before a licensing or registration board or officer to which prosecution or proceeding the person to whom the prescriptions, orders, or records relate is a party.

**27-80-213. Rules.** (1) The department shall update rules and promulgate new rules, as necessary and pursuant to article 4 of title 24, C.R.S., to implement this part 2. The department

shall make the rules available to the public on its web site.

(2) The department shall promulgate rules, in accordance with article 4 of title 24, C.R.S., for research programs and for the conduct of detoxification treatment, maintenance treatment, and withdrawal treatment programs for controlled substance addiction.

**27-80-214. Defenses.** The common law defense known as the "procuring agent defense" is not a defense to any crime in this part 2 or in title 18, C.R.S.

## ARTICLE 81

Alcohol Abuse, Education, Prevention, and Treatment

**27-81-101. Legislative declaration.** (1) It is the policy of this state that alcoholics and intoxicated persons may not be subjected to criminal prosecution because of their consumption of alcoholic beverages but rather should be afforded a continuum of treatment in order that they may lead normal lives as productive members of society. The general assembly hereby finds and declares that alcoholism and intoxication are matters of statewide concern.

(2) With the passage of this article at its first regular session in 1973, the forty-ninth general assembly has recognized the character and pervasiveness of alcohol abuse and alcoholism and that public intoxication and alcoholism are health problems that should be handled by public health rather than criminal procedures. The general assembly further finds and declares that no other health problem has been so seriously neglected and that, while the costs of dealing with the problem are burdensome, the social and economic costs and the waste of human resources caused by alcohol abuse and alcoholism are massive, tragic, and no longer acceptable. The general assembly believes that the best interests of this state demand an across-the-board locally oriented attack on the massive alcohol abuse and alcoholism problem and that this article will provide a base from which to launch the attack and reduce the tragic human loss, but only if adequately funded. Therefore, in response to the needs as determined by an ad hoc committee and to assist in the implementation of this article at both the local and state level, the general assembly hereby appropriates moneys for: Receiving and screening centers and their staffs; medical detoxification; intensive treatment; halfway house care; outpatient rehabilitative therapy; orientation, education, and in-service training; staff for the administration, monitoring, and evaluation of the program; and operating costs for patient transportation.

**27-81-102. Definitions.** As used in this article, unless the context otherwise requires:

(1) "Alcoholic" means a person who habitually lacks self-control as to the use of alcoholic beverages or uses alcoholic beverages to the extent that his or her health is substantially

impaired or endangered or his or her social or economic function is substantially disrupted. Nothing in this subsection (1) shall preclude the denomination of an alcoholic as intoxicated by alcohol or incapacitated by alcohol.

(2) "Approved private treatment facility" means a private agency meeting the standards prescribed in section 27-81-106 (1) and approved under section 27-81-106.

(3) "Approved public treatment facility" means a treatment agency operating under the direction and control of or approved by the unit or providing treatment under this article through a contract with the unit under section 27-81-105 (7) and meeting the standards prescribed in section 27-81-106 (1) and approved under section 27-81-106.

(4) "Court" means the district court in the county in which the person named in a petition filed pursuant to this article resides or is physically present. In the city and county of Denver, "court" means the probate court.

(5) "Department" means the department of human services created in section 26-1-105, C.R.S.

(6) "Director" means the director of the unit.

(7) "Emergency service patrol" means a patrol established under section 27-81-115.

(8) "Executive director" means the executive director of the department.

(9) "Incapacitated by alcohol" means that a person, as a result of the use of alcohol, is unconscious, has his or her judgment otherwise so impaired that he or she is incapable of realizing and making a rational decision with respect to his or her need for treatment, is unable to take care of his or her basic personal needs or safety, or lacks sufficient understanding or capacity to make or communicate rational decisions about himself or herself.

(10) Repealed.

(11) "Intoxicated person" or "person intoxicated by alcohol" means a person whose mental or physical functioning is temporarily but substantially impaired as a result of the presence of alcohol in his or her body.

(12) "Licensed physician" means either a physician licensed by the state of Colorado or a hospital-licensed physician employed by the admitting facility.

(13) "Minor" means a person under the age of eighteen years.

(14) "Treatment" means the broad range of emergency, outpatient, intermediate, and inpatient services and care, including diagnostic evaluation, medical, psychiatric, psychological, and social service care, vocational rehabilitation, and career counseling, that may be extended to alcoholics and intoxicated persons.

(15) "Unit" means the unit in the department that administers behavioral health programs and services, including those related to mental health and substance abuse.

**27-81-103. Powers of the unit.** (1) To carry out the purposes of this article, the unit may:

(a) Plan, establish, and maintain treatment programs as necessary or desirable;

(b) Make contracts necessary or incidental to the performance of its duties and the execution of its powers, including contracts with public and private agencies, organizations, and individuals to pay them for services rendered or furnished to alcoholics or intoxicated persons;

(c) Solicit and accept for use any gift of money or property made by will or otherwise and any grant of money, services, or property from the federal government, the state, or any political subdivision thereof or any private source, and do all things necessary to cooperate with the federal government or any of its agencies in making an application for any grant;

(d) Administer or supervise the administration of the provisions relating to alcoholics and intoxicated persons of any state plan submitted for federal funding pursuant to federal health, welfare, or treatment legislation;

(e) Coordinate its activities and cooperate with alcoholism programs in this state and other states and make contracts and other joint or cooperative arrangements with state, local, or private agencies in this state and other states for the treatment of alcoholics and intoxicated persons and for the common advancement of alcoholism programs;

(f) Keep records and engage in research and the gathering of relevant statistics;

(g) Do other acts and things necessary or convenient to execute the authority expressly granted to it; and

(h) Acquire, hold, or dispose of real property, or any interest therein, and construct, lease, or otherwise provide treatment facilities for alcoholics and intoxicated persons.

**27-81-104. Duties of the unit - review.** (1) In addition to duties prescribed by section 27-80-102, the unit shall:

(a) Develop, encourage, and foster statewide, regional, and local plans and programs for the prevention of alcoholism and treatment of alcoholics and intoxicated persons in cooperation with public and private agencies, organizations, and individuals and provide technical assistance and consultation services for these purposes;

(b) Coordinate the efforts and enlist the assistance of all public and private agencies, organizations, and individuals interested in prevention of alcoholism and treatment of alcoholics and intoxicated persons;

(c) Utilize community mental health centers and clinics whenever feasible;

(d) Cooperate with the department of corrections in establishing and conducting programs for the prevention of alcoholism and treatment of alcoholics and intoxicated persons in appropriate agencies and institutions and for alcoholics and intoxicated persons in or on parole from correctional institutions and in carrying out duties specified under paragraphs (i) and (k) of this subsection (1);

(e) Cooperate with the department of education, schools, police departments, courts, and other public and private agencies, organizations, and individuals in establishing programs for the prevention of alcoholism and treatment of alcoholics and intoxicated persons and preparing curriculum materials thereon for use at all levels of school education;

(f) Prepare, publish, evaluate, and disseminate educational material dealing with the nature and effects of alcohol;

(g) Develop and implement, as an integral part of treatment programs, an educational program for use in the treatment of alcoholics and intoxicated persons, which program shall include the dissemination of information concerning the nature and effects of alcohol;

(h) Organize and foster training programs for all persons engaged in treatment of

alcoholics and intoxicated persons;

(i) Sponsor and encourage research into the causes and nature of alcoholism and treatment of alcoholics and intoxicated persons and serve as a clearinghouse for information relating to alcoholism;

(j) Specify uniform methods for keeping statistical information by public and private agencies, organizations, and individuals and collect and make available relevant statistical information, including number of persons treated, frequency of admission and readmission, and frequency and duration of treatment;

(k) Advise the governor in the preparation of a comprehensive plan for treatment of alcoholics and intoxicated persons for inclusion in the state's comprehensive health plan;

(l) Review all state health, welfare, and treatment plans to be submitted for federal funding under federal legislation and advise the governor on provisions to be included relating to alcoholism and intoxicated persons;

(m) Assist in the development of, and cooperate with, alcohol education and treatment programs for employees of state and local governments and businesses and industries in this state;

(n) Utilize the support and assistance of interested persons in the community, particularly recovered alcoholics, to encourage alcoholics voluntarily to undergo treatment;

(o) Cooperate with the department of transportation in establishing and conducting programs designed to deal with the problem of persons operating motor vehicles while under the influence of, or impaired by, alcohol;

(p) Encourage general hospitals and other appropriate health facilities to admit without discrimination alcoholics and intoxicated persons and to provide them with adequate and appropriate treatment;

(q) Encourage all health and disability insurance programs to include alcoholism as a covered illness; and

(r) Submit to the governor an annual report covering the activities of the unit.

**27-81-105. Comprehensive program for treatment - regional facilities.** (1) The unit shall establish a comprehensive and coordinated program for the treatment of alcoholics and intoxicated persons.

(2) Insofar as funds available to the unit will permit, the program established in subsection (1) of this section shall include all of the following:

(a) Emergency treatment;

(b) Inpatient treatment;

(c) Intermediate treatment; and

(d) Outpatient and follow-up treatment.

(3) The unit shall provide for adequate and appropriate treatment for alcoholics and intoxicated persons admitted under sections 27-81-109 to 27-81-112. Except as otherwise provided in section 27-81-111, treatment may not be provided at a correctional institution except for inmates.

(4) The unit shall maintain, supervise, and control all facilities operated by it subject to policies of the department. The administrator of each facility shall make an annual report of its activities to the director in the form and manner the director specifies.

(5) All appropriate public and private resources shall be coordinated with and utilized in the program if possible.

(6) The director shall prepare, publish, and distribute annually a list of all approved public and private treatment facilities.

(7) The unit may contract for the use of any facility as an approved public treatment facility if the director, subject to the policies of the department, considers this to be an effective and economical course to follow.

**27-81-106. Standards for public and private treatment facilities - fees - enforcement procedures - penalties.** (1) In accordance with the provisions of this article, the unit shall establish standards for approved treatment facilities that receive public funds. The standards shall be met for a treatment facility to be approved as a public or private treatment facility. The unit shall fix the fees to be charged for the required inspections. The fees that are charged to approved treatment facilities that provide level I and level II programs as provided in section 42-4-1301.3 (3) (c), C.R.S., shall be transmitted to the state treasurer, who shall credit the fees to the alcohol and drug driving safety program fund created in section 42-4-1301.3 (4) (a), C.R.S. The standards may concern only the health standards to be met and standards of treatment to be afforded patients and shall reflect the success criteria established by the general assembly.

(2) The unit periodically shall inspect approved public and private treatment facilities at reasonable times and in a reasonable manner.

(3) The unit shall maintain a list of approved public and private treatment facilities.

(4) Each approved public and private treatment facility shall file with the unit, on request, data, statistics, schedules, and information the unit reasonably requires. An approved public or private treatment facility that fails without good cause to furnish any data, statistics, schedules, or information, as requested, or files fraudulent returns thereof shall be removed from the list of approved treatment facilities.

(5) The unit, after hearing, may suspend, revoke, limit, restrict, or refuse to grant an approval for failure to meet its standards.

(6) The district court may restrain any violation of, review any denial, restriction, or revocation of approval under, and grant other relief required to enforce the provisions of this section.

(7) Upon petition of the unit and after a hearing held upon reasonable notice to the facility, the district court may issue a warrant to an officer or employee of the unit authorizing him or her to enter and inspect at reasonable times, and examine the books and accounts of, any approved public or private treatment facility refusing to consent to inspection or examination by the unit or which the unit has reasonable cause to believe is operating in violation of this article.

**27-81-107. Compliance with local government zoning regulations - notice to local**

**governments - provisional approval.** (1) The unit shall require any residential treatment facility seeking approval as a public or private treatment facility pursuant to this article to comply with any applicable zoning regulations of the municipality, city and county, or county where the facility is situated. Failure to comply with applicable zoning regulations shall constitute grounds for the denial of approval of a facility.

(2) The unit shall assure that timely written notice is provided to the municipality, city and county, or county where a residential treatment facility is situated, including the address of the facility and the population and number of persons to be served by the facility, when any of the following occurs:

(a) An application for approval of a residential treatment facility pursuant to section 27-81-106 is made;

(b) Approval is granted to a residential treatment facility pursuant to section 27-81-106;

(c) A change in the approval of a residential treatment facility occurs; or

(d) The approval of a residential treatment facility is revoked or otherwise terminated for any reason.

(3) In the event of a zoning or other delay or dispute between a residential treatment facility and the municipality, city and county, or county where the facility is situated, the unit may grant provisional approval of the facility for up to one hundred twenty days pending resolution of the delay or dispute.

**27-81-108. Acceptance for treatment - rules.** (1) The director shall adopt and may amend and repeal rules for acceptance of persons into the treatment program, considering available treatment resources and facilities, for the purpose of early and effective treatment of alcoholics and intoxicated persons. In establishing the rules the director shall be guided by the following standards:

(a) If possible a patient shall be treated on a voluntary rather than an involuntary basis.

(b) A patient shall be initially assigned or transferred to outpatient or intermediate treatment, unless he or she is found to require inpatient treatment.

(c) A person shall not be denied treatment solely because he or she has withdrawn from treatment against medical advice on a prior occasion or because he or she has relapsed after earlier treatment.

(d) An individualized treatment plan shall be prepared and maintained on a current basis for each patient.

(e) Provision shall be made for a continuum of coordinated treatment services, so that a person who leaves a facility or a form of treatment will have available and utilize other appropriate treatment.

**27-81-109. Voluntary treatment of alcoholics.** (1) An alcoholic, including a minor, may apply for voluntary treatment directly to an approved treatment facility.

(2) Subject to rules adopted by the director, the administrator in charge of an approved treatment facility may determine who shall be admitted for treatment. If a person is refused

admission to an approved treatment facility, the administrator shall refer the person to another approved treatment facility for treatment if possible and appropriate.

(3) If a patient receiving inpatient care leaves an approved treatment facility, he or she shall be encouraged to consent to appropriate outpatient or intermediate treatment. If it appears to the administrator in charge of the treatment facility that the patient is an alcoholic and requires help, the administrator may arrange for assistance in obtaining supportive services and residential facilities.

**27-81-110. Voluntary treatment for intoxicated persons and persons incapacitated by alcohol.** (1) An intoxicated person or person intoxicated or incapacitated by alcohol, including a minor, may voluntarily admit himself or herself to an approved treatment facility for emergency treatment.

(2) A person who comes voluntarily to an approved treatment facility shall be evaluated or examined by the facility administrator or by his or her authorized designee immediately. A person found to be in need of treatment shall then be admitted or referred to another appropriate facility. If a person is found not to be in need of treatment, he or she shall be released or referred to another appropriate facility.

(3) Except as provided in subsection (7) of this section, a voluntarily admitted person shall be released from the approved treatment facility immediately upon his or her request.

(4) A person who is not admitted to an approved treatment facility, and who is not referred to another health facility, and who has no funds may be taken to his or her home, if any. If he or she has no home, the approved treatment facility may assist him or her in obtaining shelter.

(5) If a person is admitted to an approved treatment facility, his or her family or next of kin shall be notified as promptly as possible. If an adult person requests that there be no notification, his or her request shall be respected.

(6) If the administrator in charge of the approved treatment facility or his or her authorized designee determines that it is for the person's benefit, the person shall be encouraged to agree to further diagnosis and appropriate voluntary treatment.

(7) Nothing in this section shall preclude the approved treatment facility administrator or his or her authorized designee from seeking emergency commitment of a person as provided in section 27-81-111 or involuntary commitment of a person as provided in section 27-81-112, regardless of whether such person has been voluntarily admitted under this section. In such cases, the administrator's or designee's further conduct shall be governed by section 27-81-111 or 27-81-112, as applicable.

**27-81-111. Emergency commitment.** (1) (a) When a person is intoxicated or incapacitated by alcohol and clearly dangerous to the health and safety of himself, herself, or others, he or she shall be taken into protective custody by law enforcement authorities or an emergency service patrol, acting with probable cause, and placed in an approved treatment

facility. If no such facilities are available, he or she may be detained in an emergency medical facility or jail, but only for so long as may be necessary to prevent injury to himself, herself, or others or to prevent a breach of the peace. If the person being detained is a juvenile, as defined in section 19-1-103 (68), C.R.S., the juvenile shall be placed in a setting that is nonsecure and physically segregated by sight and sound from the adult offenders. A law enforcement officer or emergency service patrol officer, in detaining the person, is taking him or her into protective custody. In so doing, the detaining officer may protect himself or herself by reasonable methods but shall make every reasonable effort to protect the detainee's health and safety. A taking into protective custody under this section is not an arrest, and no entry or other record shall be made to indicate that the person has been arrested or charged with a crime. Law enforcement or emergency service personnel who act in compliance with this section are acting in the course of their official duties and are not criminally or civilly liable therefor. Nothing in this subsection (1) shall preclude an intoxicated or incapacitated person who is not dangerous to the health and safety of himself, herself, or others from being assisted to his or her home or like location by the law enforcement officer or emergency service patrol officer.

(b) A sheriff or police chief who violates the provisions of paragraph (a) of this subsection (1) related to detaining juveniles may be subject to a civil fine of no more than one thousand dollars. The decision to fine shall be based on prior violations of the provisions of paragraph (a) of this subsection (1) by the sheriff or police chief and the willingness of the sheriff or police chief to address the violations in order to comply with paragraph (a) of this subsection (1).

(2) A law enforcement officer, emergency service patrolman, physician, spouse, guardian, or relative of the person to be committed or any other responsible person may make a written application for emergency commitment under this section, directed to the administrator of the approved treatment facility. The application shall state the circumstances requiring emergency commitment, including the applicant's personal observations and the specific statements of others, if any, upon which he or she relies in making the application. A copy of the application shall be furnished to the person to be committed.

(3) If the approved treatment facility administrator or his or her authorized designee approves the application, the person shall be committed, evaluated, and treated for a period not to exceed five days. The person shall be brought to the facility by a peace officer, the emergency service patrol, or any interested person. If necessary, the court may be contacted to issue an order to the police, the peace officer's department, or the sheriff's department to transport the person to the facility.

(4) If the approved treatment facility administrator or his or her authorized designee determines that the application fails to sustain the grounds for emergency commitment as set forth in subsection (1) of this section, the commitment shall be refused and the person detained immediately released, and the person shall be encouraged to seek voluntary treatment if appropriate.

(5) When the administrator determines that the grounds for commitment no longer exist, he or she shall discharge the person committed under this section. A person committed under this section may not be detained in any treatment facility for more than five days; except that a person may be detained for longer than five days at the approved treatment facility if, in that period of

time, a petition for involuntary commitment has been filed pursuant to section 27-81-112. A person may not be detained longer than ten days after the date of filing of the petition for involuntary commitment.

(6) Whenever a person is involuntarily detained pursuant to this section, he or she shall immediately be advised by the facility administrator or his or her authorized designee, both orally and in writing, of his or her right to challenge such detention by application to the courts for a writ of habeas corpus, to be represented by counsel at every stage of any proceedings relating to his or her commitment and recommitment, and to have counsel appointed by the court or provided by the court if he or she wants the assistance of counsel and is unable to obtain counsel.

**27-81-112. Involuntary commitment of alcoholics.** (1) A person may be committed to the custody of the unit by the court upon the petition of the person's spouse or guardian, a relative, a physician, an advanced practice nurse, the administrator in charge of any approved treatment facility, or any other responsible person. The petition shall allege that the person is an alcoholic and that the person has threatened or attempted to inflict or inflicted physical harm on himself or herself or on another and that unless committed the person is likely to inflict physical harm on himself or herself or on another or that the person is incapacitated by alcohol. A refusal to undergo treatment does not constitute evidence of lack of judgment as to the need for treatment. The petition shall be accompanied by a certificate of a licensed physician who has examined the person within two days before submission of the petition, unless the person whose commitment is sought has refused to submit to a medical examination, in which case the fact of refusal shall be alleged in the petition. The certificate shall set forth the physician's findings in support of the allegations of the petition.

(2) A petition submitted pursuant to subsection (1) of this section shall not be accepted unless there is documentation of the refusal by the person to be committed to accessible and affordable voluntary treatment. The documentation may include, but shall not be limited to, notations in the person's medical or law enforcement records or statements by a physician, advanced practice nurse, or witness.

(3) Upon the filing of the petition, the court shall fix a date for a hearing no later than ten days after the date the petition was filed. A copy of the petition and of the notice of the hearing, including the date fixed by the court, shall be personally served on the petitioner, the person whose commitment is sought, and one of his or her parents or his or her legal guardian if he or she is a minor. A copy of the petition and notice of hearing shall be mailed to the unit, to counsel for the person whose commitment is sought, to the administrator in charge of the approved treatment facility to which the person may have been committed for emergency treatment, and to any other person the court believes advisable.

(4) At the hearing, the court shall hear all relevant testimony, including, if possible, the testimony of at least one licensed physician who has examined the person whose commitment is sought. The person shall be present unless the court believes that the person's presence is likely to be injurious to the person; in this event, the court shall appoint a guardian ad litem to represent the person throughout the proceeding. If the person has refused to be examined by a licensed physician, he or she shall be given an opportunity to be examined by a court-appointed licensed

physician. If the person refuses and there is sufficient evidence to believe that the allegations of the petition are true or if the court believes that more medical evidence is necessary, the court may commit the person to a licensed hospital for a period of not more than five days for a diagnostic examination. In such event, the court shall schedule a further hearing for final determination of commitment, in no event later than five days after the first hearing.

(5) If after hearing all relevant evidence, including the results of any diagnostic examination by the licensed hospital, the court finds that grounds for involuntary commitment have been established by clear and convincing proof, it shall make an order of commitment to the unit. The unit shall have the right to delegate physical custody of the person to an appropriate approved treatment facility. It may not order commitment of a person unless it determines that the unit is able to provide adequate and appropriate treatment for him or her, and the treatment is likely to be beneficial.

(6) Upon the commitment of a person to the unit by the court, the court may issue an order to the sheriff to transport the person committed to the facility designated by the unit.

(7) A person committed as provided in this section shall remain in the custody of the unit for treatment for a period of thirty days unless sooner discharged. At the end of the thirty-day period, he or she shall be discharged automatically unless the unit, before expiration of the period, obtains a court order for his or her recommitment upon the grounds set forth in subsection (1) of this section for a further period of ninety days unless sooner discharged. If a person has been committed because he or she is an alcoholic likely to inflict physical harm on another, the unit shall apply for recommitment if after examination it is determined that the likelihood still exists.

(8) A person recommitted as provided in subsection (7) of this section who has not been discharged by the unit before the end of the ninety-day period shall be discharged at the expiration of that period unless the unit, before expiration of the period, obtains a court order on the grounds set forth in subsection (1) of this section for recommitment for a further period not to exceed ninety days. If a person has been committed because he or she is an alcoholic likely to inflict physical harm on another, the unit shall apply for recommitment if after examination it is determined that the likelihood still exists. Only two recommitment orders under subsection (7) of this section and this subsection (8) are permitted.

(9) Upon the filing of a petition for recommitment under subsections (7) and (8) of this section, the court shall fix a date for hearing no later than ten days after the date the petition was filed. A copy of the petition and of the notice of hearing shall be served and mailed as required in subsection (3) of this section. At the hearing, the court shall proceed as provided in subsection (4) of this section.

(10) The unit shall provide for adequate and appropriate treatment of a person committed to its custody. The unit may transfer any person committed to its custody from one approved treatment facility to another if transfer is advisable.

(11) A person committed to the custody of the unit for treatment shall be discharged at any time before the end of the period for which he or she has been committed if either of the following conditions is met:

(a) In the case of an alcoholic committed on the grounds that he or she is likely to inflict physical harm upon another, that he or she no longer has an alcoholic condition that requires

treatment or the likelihood no longer exists; or

(b) In the case of an alcoholic committed on the grounds of the need of treatment and incapacity, that the incapacity no longer exists, further treatment will not be likely to bring about significant improvement in the person's condition, or treatment is no longer appropriate.

(12) The court shall inform the person whose commitment or recommitment is sought of his or her right to contest the application, to be represented by counsel at every stage of any proceedings relating to the person's commitment and recommitment, and to have counsel appointed by the court or provided by the court if he or she wants the assistance of counsel and is unable to obtain counsel. If the court believes that the person needs the assistance of counsel, the court shall require, by appointment if necessary, counsel for the person regardless of his or her wishes. The person whose commitment or recommitment is sought shall be informed of his or her right to be examined by a licensed physician of the person's choice. If the person is unable to obtain a licensed physician and requests examination by a physician, the court shall employ a licensed physician.

(13) If a private treatment facility agrees with the request of a competent patient or his or her parent, sibling, adult child, or guardian to accept the patient for treatment, the administrator of the public treatment facility shall transfer him or her to the private treatment facility.

(14) A person committed under this article may at any time seek to be discharged from commitment by an order in the nature of habeas corpus.

(15) The venue for proceedings under this section is the county in which the person to be committed resides or is present.

(16) All proceedings conducted pursuant to this article shall be conducted by the district attorney of the county where the proceeding is held or by an attorney acting for the district attorney appointed by the court for that purpose; except that, in any county or in any city and county having a population exceeding one hundred thousand persons, the proceedings shall be conducted by the county attorney or by an attorney acting for the county attorney appointed by the court.

**27-81-113. Records of alcoholics and intoxicated persons.** (1) The registration and other records of treatment facilities shall remain confidential and are privileged to the patient.

(2) Notwithstanding subsection (1) of this section, the director may make available information from patients' records for purposes of research into the causes and treatment of alcoholism. Information under this subsection (2) shall not be published in a way that discloses patients' names or other identifying information.

(3) Nothing in this section shall be construed to prohibit or limit the sharing of information by a state institution of higher education police department to authorized university administrators pursuant to section 23-5-141, C.R.S.

**27-81-114. Visitation and communication of patients.** (1) A patient in any approved treatment facility shall be granted opportunities for continuing visitation and communication

with his or her family and friends consistent with an effective treatment program. A patient shall be permitted to consult with counsel at any time.

(2) Neither mail nor other communication to or from a patient in any approved treatment facility may be intercepted, read, or censored. The director may adopt reasonable rules regarding the use of the telephone by patients in approved treatment facilities.

**27-81-115. Emergency service patrol - establishment - rules.** (1) The unit and cities, counties, city and counties, and regional service authorities may establish emergency service patrols. A patrol consists of persons trained to give assistance in the streets and in other public places to persons who are intoxicated or incapacitated by alcohol. Members of an emergency service patrol shall be capable of providing first aid in emergency situations and shall be authorized to transport a person intoxicated or incapacitated by alcohol to his or her home and to and from treatment facilities.

(2) The director shall adopt rules for the establishment, training, and conduct of emergency service patrols.

**27-81-116. Payment for treatment - financial ability of patients.** (1) If treatment is provided by an approved public treatment facility and the patient, including a committed person, has not paid the charge therefor, the approved treatment facility is entitled to any payment received by the patient or to which the patient may be entitled because of the services rendered and from any public or private source available to the approved treatment facility because of the treatment provided to the patient. The approved treatment facility may seek and obtain a judgment in an appropriate court for any fees or charges that have not been paid.

(2) A patient in an approved treatment facility, or the estate of the patient, or a person obligated to provide for the cost of treatment and having sufficient financial ability is liable to the approved treatment facility for the cost of maintenance and treatment of the patient therein in accordance with rates established. The approved treatment facility may seek and obtain a judgment in an appropriate court for any fees or charges that have not been paid.

(3) The director shall adopt rules that establish a standardized ability-to-pay schedule, under which those with sufficient financial ability are required to pay the full cost of services provided and those who are totally without sufficient financial ability are provided appropriate treatment at no charge. The schedule shall take into consideration the income, including government assistance programs, savings, and other personal and real property, of the person required to pay and any support the person required to pay furnishes to another person as required by law.

(4) Nothing in this section shall prohibit an approved treatment facility from charging a minimal fee for therapeutic purposes.

**27-81-117. Criminal laws - limitations.** (1) A county, municipality, or other political subdivision may not adopt or enforce a local law, ordinance, resolution, or rule having the force

of law that includes drinking, being a common drunkard, or being found in an intoxicated condition as one of the elements of the offense giving rise to a criminal or civil penalty or sanction.

(2) A county, municipality, or other political subdivision may not interpret or apply any law of general application to circumvent the provisions of subsection (1) of this section.

(3) Nothing in this article affects any law, ordinance, resolution, or rule against drunken driving, driving under the influence of alcohol, or other similar offense involving the operation of a vehicle, an aircraft, or a boat or machinery or other equipment or regarding the sale, purchase, dispensing, possessing, or use of alcoholic beverages at stated times and places or by a particular class of persons.

(4) The fact that a person is intoxicated or incapacitated by alcohol shall not prevent his or her arrest or prosecution for the commission of any criminal act or conduct not enumerated in subsection (1) of this section.

(5) Nothing in this article shall be construed as a limitation upon the right of a police officer to make an otherwise legal arrest, notwithstanding the fact that the arrested person may be intoxicated or incapacitated by alcohol.

## ARTICLE 82

Drug Abuse Prevention, Education,
and Treatment

**27-82-101. Legislative declaration.** (1) The general assembly recognizes the character and pervasiveness of drug abuse and drug dependency and that drug abuse and dependency are serious problems. The general assembly further finds and declares that these problems have been very seriously neglected and that the social and economic costs and the waste of human resources caused by drug abuse and dependency are massive, tragic, and no longer acceptable. The general assembly believes that the best interests of this state demand an across-the-board locally oriented attack on the massive drug abuse and dependency problem, which attack includes prevention, education, and treatment, and that this article will provide a base from which to launch the attack and reduce the tragic human loss.

(2) It is the policy of this state that drug dependent persons and persons who are under the influence of drugs should be afforded treatment in order that they may lead normal lives as productive members of society. The general assembly hereby finds and declares that drug abuse and drug dependency are matters of statewide concern.

**27-82-102. Definitions.** As used in this article, unless the context otherwise requires:

(1) "Administrator" means the administrator of an approved treatment facility or an individual authorized in writing to act as his or her designee.

(2) "Approved private treatment facility" means a private agency meeting the standards prescribed in section 27-82-103 (1) and approved under section 27-82-103.

(3) "Approved public treatment facility" means a treatment agency operating under the direction and control of or approved by the unit and meeting the standards prescribed in section 27-82-103 (1) and approved under section 27-82-103.

(4) "Court" means the district court in the county in which the person named in a petition filed pursuant to this article resides or is physically present. In the city and county of Denver, "court" means the probate court.

(5) "Department" means the department of human services created in section 26-1-105, C.R.S.

(6) "Director" means the director of the unit.

(7) "Drug" means a controlled substance as defined in section 18-18-102 (5), C.R.S., and toxic vapors.

(8) "Drug abuser" means a person who habitually uses drugs or who uses drugs to the extent that his or her health is substantially impaired or endangered or his or her social or economic function is substantially disrupted. Nothing in this subsection (8) shall preclude the denomination of a drug abuser as a person under the influence of or incapacitated by drugs.

(9) "Executive director" means the executive director of the department.

(10) "Incapacitated by drugs" means that a person, as a result of the use of drugs, is unconscious or has his or her judgment otherwise so impaired that he or she is incapable of realizing and making a rational decision with respect to his or her need for treatment, is unable to take care of his or her basic personal needs or safety, or lacks sufficient understanding or capacity to make or communicate rational decisions concerning himself or herself.

(11) "Licensed physician" means either a physician licensed by the state of Colorado or a hospital-licensed physician employed by the admitting facility.

(12) "Minor" means a person under the age of eighteen years.

(13) "Person under the influence of drugs" means any person whose mental or physical functioning is temporarily but substantially impaired as a result of the presence of drugs in his or her body.

(14) "Toxic vapors" means a substance or product containing such substances as defined in section 18-18-412 (3), C.R.S.

(15) "Treatment" means the broad range of emergency, outpatient, intermediate, and inpatient services and care, including diagnostic evaluation, medical, psychiatric, psychological, and social service care, vocational rehabilitation, and career counseling, that may be extended to drug abusers and persons under the influence of drugs.

(16) "Unit" means the unit in the department that administers behavioral health programs and services, including those related to mental health and substance abuse.

**27-82-103. Standards for public and private treatment facilities - fees - enforcement procedures - penalties.** (1) In accordance with the provisions of this article, the unit shall

establish standards for approved treatment facilities that receive public funds or that dispense controlled substances or both. The standards shall be met for a treatment facility to be approved as a public or private treatment facility. The unit shall fix the fees to be charged for the required inspections. The fees that are charged to approved treatment facilities that provide level I and level II programs as provided in section 42-4-1301.3 (3) (c), C.R.S., shall be transmitted to the state treasurer, who shall credit the fees to the alcohol and drug driving safety program fund created in section 42-4-1301.3 (4) (a), C.R.S. The standards may concern only the health standards to be met and standards of treatment to be afforded patients and shall reflect the success criteria established by the general assembly.

(2) The unit periodically shall inspect approved public and private treatment facilities at reasonable times and in a reasonable manner.

(3) The unit shall maintain a list of approved public and private treatment facilities.

(4) Each approved public and private treatment facility shall file with the unit, on request, data, statistics, schedules, and information the unit reasonably requires. An approved public or private treatment facility that fails without good cause to furnish any data, statistics, schedules, or information, as requested, or files fraudulent returns thereof shall be removed from the list of approved treatment facilities.

(5) The unit, after hearing, may suspend, revoke, limit, restrict, or refuse to grant an approval for failure to meet its standards.

(6) A person shall not operate a private or public treatment facility in this state without approval from the unit; except that this article shall not apply to a private treatment facility that accepts only private funds and does not dispense controlled substances. The district court may restrain any violation of, review any denial, restriction, or revocation of approval under, and grant other relief required to enforce the provisions of this section.

(7) Upon petition of the unit and after a hearing held upon reasonable notice to the facility, the district court may issue a warrant to an officer or employee of the unit authorizing him or her to enter and inspect at reasonable times, and examine the books and accounts of, any approved public or private treatment facility refusing to consent to inspection or examination by the unit or which the unit has reasonable cause to believe is operating in violation of this article.

**27-82-104. Acceptance for treatment - rules.** (1) The director shall adopt and may amend and repeal rules for acceptance of persons into the treatment program, considering available treatment resources and facilities, for the purpose of early and effective treatment of drug abusers and persons under the influence of drugs. In establishing the rules, the director shall be guided by the following standards:

(a) If possible a patient shall be treated on a voluntary rather than an involuntary basis.

(b) A patient shall be initially assigned or transferred to outpatient treatment, unless or until he or she is found to require residential treatment.

(c) A person may not be denied treatment solely because he or she has withdrawn from treatment against medical advice on a prior occasion or because he or she has relapsed after earlier treatment.

(d) An individualized treatment plan shall be prepared and maintained on a current basis

for each patient.

(e) Provision shall be made for a continuum of coordinated treatment services, so that a person who leaves a facility or leaves a form of treatment will have available and utilize other appropriate treatment.

**27-82-105. Voluntary treatment of drug abusers.** (1) A drug abuser, including a minor, may apply for voluntary treatment directly to an approved treatment facility.

(2) Subject to rules adopted by the director, the administrator in charge of an approved treatment facility shall determine who shall be admitted for treatment. If a person is refused admission to an approved treatment facility, the administrator may refer the person to another approved and appropriate treatment facility for treatment if it is deemed likely to be beneficial. A person should not be referred for further treatment if it is determined that further treatment is not likely to bring about significant improvement in the person's condition, or treatment is no longer appropriate, or further treatment is unlikely to be beneficial.

(3) If a patient receiving residential care leaves an approved treatment facility, he or she shall be encouraged to consent to outpatient treatment or supportive services if appropriate.

**27-82-106. Voluntary treatment for persons under influence of drugs and persons incapacitated by drugs.** (1) A person under the influence of or incapacitated by drugs, including a minor if provided by rules of the unit, may voluntarily admit himself or herself to an approved treatment facility for emergency treatment.

(2) A person who voluntarily enters an approved treatment facility shall be immediately evaluated or examined by the facility administrator. A person found to be in need of treatment shall then be admitted or referred to another appropriate facility. If a person is found not to be in need of treatment, he or she shall be released or referred to another appropriate facility.

(3) Except as provided in subsection (7) of this section, a voluntarily admitted person shall be released from the approved treatment facility immediately upon his or her request.

(4) A person who is not admitted to an approved treatment facility, and who is not referred to another health facility, and who has no funds may be taken to his or her home, if any. If he or she has no home, the approved treatment facility may assist him or her in obtaining shelter.

(5) If a person is admitted to an approved treatment facility, his or her family or next of kin shall be notified as promptly as possible in accordance with federal confidentiality regulations for alcohol and drug abuse patient records, which regulations are found at 42 CFR, part II, secs. 2.1 to 2.67, as amended. If an adult person requests that there be no notification, his or her request shall be respected.

(6) If the administrator in charge of the approved treatment facility determines that it is for the person's benefit, the person shall be encouraged to agree to further diagnosis and appropriate voluntary treatment.

(7) Nothing in this section shall preclude the approved treatment facility administrator

from seeking emergency commitment of a person as provided in section 27-82-107 or involuntary commitment of a person as provided in section 27-82-108, regardless of whether the person has been voluntarily admitted under this section. In such case, the administrator's or designee's further conduct shall be governed by section 27-82-107 or 27-82-108, as applicable.

**27-82-107. Emergency commitment.** (1) When any person is under the influence of or incapacitated by drugs and clearly dangerous to the health and safety of himself, herself, or others, he or she may be taken into protective custody by law enforcement authorities, acting with probable cause, and placed in an approved treatment facility. If no such facilities are available, he or she may be detained in an emergency medical facility or jail, but only for so long as may be necessary to prevent injury to himself, herself, or others or to prevent a breach of the peace. A law enforcement officer, in detaining the person, is taking him or her into protective custody. In so doing, the detaining officer may protect himself or herself by reasonable methods but shall make every reasonable effort to protect the detainee's health and safety. A taking into protective custody under this section is not an arrest, and no entry or other record shall be made to indicate that the person has been arrested or charged with a crime. Law enforcement personnel who act in compliance with this section are acting in the course of their official duties and are not criminally or civilly liable therefor. Nothing in this subsection (1) shall preclude a person under the influence of or incapacitated by drugs who is not dangerous to the health and safety of himself, herself, or others from being assisted to his or her home or like location by the law enforcement officer.

(2) A law enforcement officer, physician, spouse, guardian, or relative of the person to be committed or any other responsible person may make a written application for emergency commitment under this section, directed to the administrator of the approved treatment facility. The application shall state the circumstances requiring emergency commitment, including the applicant's personal observations and the specific statements of others, if any, upon which he or she relies in making the application. A copy of the application shall be furnished to the person to be committed.

(3) If the approved treatment facility administrator finds that there are sufficient grounds in the application, the person shall be committed, evaluated, and treated for a period not to exceed five days. The person shall be brought to the facility by a peace officer or any interested person. If necessary, the court may be contacted to issue an order to the police, the peace officer's department, or the sheriff's department to transport the person to the facility.

(4) If the approved treatment facility administrator determines that there are insufficient grounds in the application to sustain an emergency commitment as set forth in subsection (1) of this section, the commitment shall be refused and the person detained immediately released, and the person shall be encouraged to seek voluntary treatment if appropriate.

(5) When the administrator determines that the grounds for commitment no longer exist, the emergency commitment shall be revoked and the client shall be placed on voluntary status and encouraged to seek further voluntary treatment. No person committed under this section may be detained in any treatment facility for more than five days; except that a person may be detained for longer than five days at the approved treatment facility if, in that period of time, a

petition for involuntary commitment has been filed pursuant to section 27-82-108. A person may not be detained longer than ten days, excluding weekends and holidays, after the date of filing of the petition for involuntary commitment unless valid medical reasons exist for detaining a person longer.

(6) Whenever a person is involuntarily detained pursuant to this section, he or she shall be advised within twenty-four hours by the facility administrator, both orally and in writing, of his or her right to challenge such detention by application to the courts for a writ of habeas corpus, and to have counsel appointed by the court or provided by the court if he or she wants the assistance of counsel and is unable to obtain counsel.

**27-82-108. Involuntary commitment of drug abusers.** (1) A person may be committed to the custody of the unit by the court upon the petition of the person's spouse or guardian, a relative, a physician, an advanced practice nurse, the administrator in charge of any approved treatment facility, or any other responsible person. The petition shall allege that the person is a drug abuser and that the person has threatened or attempted to inflict or inflicted physical harm on himself or herself or on another and that unless committed the person is likely to inflict physical harm on himself or herself or on another or that the person is incapacitated by drugs. A refusal to undergo treatment does not constitute evidence of lack of judgment as to the need for treatment. The petition shall be accompanied by a certificate of a licensed physician who has examined the person within ten days before submission of the petition, unless the person whose commitment is sought has refused to submit to a medical examination or an examination cannot be made of such person due to the person's condition. The certificate shall set forth the physician's findings in support of the allegations of the petition.

(2) A petition submitted pursuant to subsection (1) of this section shall not be accepted unless there is documentation of the refusal by the person to be admitted to accessible and affordable voluntary treatment. Documentation may include, but shall not be limited to, physicians' and advanced practice nurses' statements, notations in the person's medical or law enforcement records, or witnesses' statements.

(3) Upon the filing of the petition, the court shall fix a date for a hearing no later than ten days, excluding weekends and holidays, after the date the petition was filed, unless valid medical reasons exist for delaying the hearing. A copy of the petition and of the notice of the hearing, including the date fixed by the court, shall be personally served on the person whose commitment is sought and one of his or her parents or his or her legal guardian if he or she is a minor. A copy of the petition and notice of hearing shall be provided to the petitioner, to the unit, to counsel for the person whose commitment is sought, if any, to the administrator in charge of the approved treatment facility to which the person may have been committed for emergency treatment, and to any other person the court believes advisable.

(4) At the hearing, the court shall hear all relevant testimony, including, if possible, the testimony of at least one licensed physician who has examined the person whose commitment is sought. The person shall be present unless the court believes that the person's presence is likely to be injurious to the person; in this event, the court shall appoint a guardian ad litem to represent the person throughout the proceeding. If the person has refused to be examined by a licensed

physician, he or she shall be given an opportunity to be examined by a court-appointed licensed physician. If the person refuses and there is sufficient evidence to believe that the allegations of the petition are true or if the court believes that more medical evidence is necessary, the court may commit the person to a licensed hospital or an approved public or private treatment facility for a period of not more than five days for a diagnostic examination. In such event, the court shall schedule a further hearing for final determination of commitment, in no event later than five days after the first hearing.

(5) If after hearing all relevant evidence, including the results of any diagnostic examination by the licensed hospital, the court finds that grounds for involuntary commitment have been established by clear and convincing proof, it shall make an order of commitment to the unit. The unit shall have the right to delegate physical custody of the person to an appropriate approved treatment facility. It may not order commitment of a person unless it determines that the unit is able to provide adequate and appropriate treatment for him or her and that the treatment is likely to be beneficial.

(6) Upon the commitment of a person to the unit by the court, the court may issue an order to the sheriff to transport the person committed to the facility designated by the unit.

(7) A person committed as provided in this section shall remain in the custody of the unit for treatment for a period of thirty days unless sooner discharged. At the end of the thirty-day period, he or she shall be discharged automatically unless the unit, before expiration of the period, files a petition for his or her recommitment upon the grounds set forth in subsection (1) of this section for a further period of ninety days and a hearing has been scheduled in accordance with subsection (3) of this section. If a person has been committed because he or she is a drug abuser likely to inflict physical harm on another, the unit shall apply for recommitment if, after examination, it is determined that the likelihood still exists.

(8) A person recommitted as provided in subsection (7) of this section who has not been discharged by the unit before the end of the ninety-day period shall be discharged at the expiration of that period unless the unit, before expiration of the period, files a petition on the grounds set forth in subsection (1) of this section for recommitment for a further period not to exceed ninety days and a hearing has been scheduled in accordance with subsection (3) of this section. If a person has been committed because he or she is a drug abuser likely to inflict physical harm on another, the unit shall apply for recommitment if after examination it is determined that the likelihood still exists. Only two recommitment orders under subsection (7) of this section and this subsection (8) are permitted.

(9) Upon the filing of a petition for recommitment under subsections (7) and (8) of this section, the court shall fix a date for hearing no later than ten days, excluding weekends and holidays, after the date the petition was filed unless valid medical reasons exist for delaying the hearing. A copy of the petition and of the notice of hearing shall be served as required in subsection (3) of this section. At the hearing, the court shall proceed as provided in subsection (4) of this section.

(10) The unit shall provide for adequate and appropriate treatment of a person committed to its custody. The unit may transfer any person committed to its custody from one approved treatment facility to another if transfer is advisable.

(11) A person committed to the custody of the unit for treatment shall be discharged at

any time before the end of the period for which he or she has been committed if either of the following conditions is met:

(a) In the case of a drug abuser committed on the grounds that he or she is likely to inflict physical harm upon another, that he or she no longer has a drug abuse condition that requires treatment or the likelihood no longer exists; or

(b) In the case of a drug abuser committed on the grounds of the need of treatment and incapacity, that the incapacity no longer exists, or in case of a drug abuser committed on any grounds under this section, that further treatment will not be likely to bring about significant improvement in the person's condition, or treatment is no longer appropriate, or further treatment is unlikely to be beneficial.

(12) The court shall inform the person whose commitment or recommitment is sought of his or her right to contest the application, to be represented by counsel at every stage of any proceedings relating to the person's commitment and recommitment, and to have counsel appointed by the court or provided by the court if the person wants the assistance of counsel and is unable to obtain counsel. If the court believes that the person needs the assistance of counsel, the court shall require, by appointment if necessary, counsel for the person regardless of the person's wishes. The person whose commitment or recommitment is sought shall be informed of his or her right to be examined by a licensed physician of the person's choice. If the person is unable to obtain a licensed physician and requests examination by a physician, the court shall employ a licensed physician.

(13) If a private treatment facility agrees with the request of a competent patient or his or her parent, sibling, adult child, or guardian to accept the patient for treatment, the administrator of the public treatment facility may transfer him or her to the private treatment facility.

(14) A person committed under this article may at any time seek to be discharged from commitment by an order in the nature of habeas corpus.

(15) The venue for proceedings under this section is the county in which the person to be committed resides or is present.

(16) All proceedings conducted pursuant to this article shall be conducted by the district attorney of the county where the proceeding is held or by an attorney acting for the district attorney appointed by the court for that purpose; except that, in any county or in any city and county having a population exceeding one hundred thousand persons, the proceedings shall be conducted by the county attorney or by an attorney acting for the county attorney appointed by the court.

**27-82-109. Records of drug abusers and persons under influence of drugs.** (1) The registration and other records of treatment facilities shall remain confidential and fully protected as outlined in federal confidentiality regulations for alcohol and drug abuse patient records found at 42 CFR, part II, secs. 2.1 to 2.67, as amended.

(2) Notwithstanding subsection (1) of this section, the director may make available information from patients' records for purposes of research into the causes and treatment of drug abuse. Information under this subsection (2) shall not be published in a way that discloses

patients' names or other identifying information.

**27-82-110. Visitation and communication of patients.** (1) A patient in an approved treatment facility shall be granted opportunities for continuing visitation and communication with his or her family and friends consistent with an effective treatment program. A patient shall be permitted to consult with counsel at any time.

(2) Neither mail nor other communication to or from a patient in any approved treatment facility may be intercepted, read, or censored. The director may adopt reasonable rules regarding the use of the telephone by patients in approved treatment facilities.

**27-82-111. Payment for treatment - financial ability of patients.** (1) If treatment is provided by an approved public treatment facility and the patient, including a committed person, has not paid the charge therefor, the approved treatment facility is entitled to any payment received by the patient or to which he or she may be entitled because of the services rendered and from any public or private source available to the approved treatment facility because of the treatment provided to the patient. The treatment facility may seek and obtain a judgment in an appropriate court for any fees or charges which have not been paid.

(2) A patient in an approved treatment facility, or the estate of the patient, or a person obligated to provide for the cost of treatment and having sufficient financial ability is liable to the approved treatment facility for the cost of maintenance and treatment of the patient therein in accordance with rates established. The treatment facility may seek and obtain a judgment in an appropriate court for any fees or charges that have not been paid.

(3) The director shall establish by rule a standardized ability-to-pay schedule, under which those with sufficient financial ability are required to pay the full cost of services provided and those who are totally without sufficient financial ability are provided appropriate treatment at no charge. Such schedule shall take into consideration the income including government assistance programs, savings, and other personal and real property of the person required to pay, and any support being furnished by him or her to any person he or she is required by law to support.

(4) Nothing in this section shall prohibit a facility from charging a minimal fee for therapeutic purposes.

**27-82-112. Criminal laws - limitations.** (1) Nothing in this article affects any law, ordinance, resolution, or rule against driving under the influence of drugs or other similar offense involving the operation of a vehicle, an aircraft, a boat, any machinery, or any other equipment or regarding the sale, purchase, possession, or use of drugs.

(2) The fact that a person is under the influence of or incapacitated by drugs shall not prevent his or her arrest or prosecution for the commission of any criminal act or conduct.

(3) Nothing in this article shall be construed as a limitation upon the right of a police officer to make an otherwise legal arrest, notwithstanding the fact that the arrested person may be

under the influence of or incapacitated by drugs.

**27-82-113. Limitations on services and programs provided - available funds.** (1) The level of services provided and the scope of programs administered by the unit that relate to drug abuse prevention, education, and treatment, including the number of clients served in treatment programs, shall be subject to the moneys available to the unit for such purposes.

(2) The department is authorized to accept, on behalf of the state of Colorado, and expend any grants of federal funds for all or any purposes of this article.

## INSTITUTIONS

## ARTICLE 90

Institutions - Department of Human Services

**27-90-100.3. Definitions.** As used in this article, unless the context otherwise requires:

(1) "Department" means the department of human services created in section 26-1-105, C.R.S.

(2) "Executive director" means the executive director of the department of human services.

**27-90-101. Executive director - division heads - interagency council - advisory boards.** (1) (a) Medical personnel employed at any of the institutions subject to the control of the executive director, the medical director of which is licensed to practice medicine in this state, shall be exempt from the provisions of the "Colorado Medical Practice Act", article 36 of title 12, C.R.S., with respect to service rendered to bona fide patients or inmates at those institutions, if such personnel: Are licensed to practice medicine in any other state of the United States or any province of Canada; have satisfactorily completed an internship of not less than one year in the United States, Canada, or Puerto Rico in a hospital approved for that purpose by the American medical association; have satisfactorily completed three years of postgraduate residency training, or its equivalent, in their particular specialty in a hospital approved for that purpose by the American medical association; and can read, write, speak, and understand the English language. Proof that the requirements have been met shall be submitted to and approved or disapproved by the executive director.

(b) All personnel who cannot satisfy all of the requirements set forth in paragraph (a) of

this subsection (1) shall be exempt from the "Colorado Medical Practice Act", article 36 of title 12, C.R.S., with respect to services rendered to bona fide patients or inmates at said institutions, if the personnel are of good moral character, are graduates of an approved medical college as defined in section 12-36-102.5, C.R.S., have completed an approved internship of at least one year as defined in section 12-36-102.5, C.R.S., within nine months after first being employed, pass the examinations approved by the Colorado medical board under the "Colorado Medical Practice Act" and the national board of medical examiners, the national board of examiners for osteopathic physicians and surgeons, or the federation of state medical boards, or their successor organizations, on subjects relating to the basic sciences, are able to read, write, speak, and understand the English language, and, in the case of personnel who are not citizens of the United States, become citizens within the minimum period of time within which the particular individual can become a citizen according to the laws of the United States and the regulations of the immigration and naturalization service of the United States, department of justice, or any successor agency, or within such additional time as may be granted by said boards.

(c) Medical personnel granted exemption under paragraphs (a) and (b) of this subsection (1) may not practice medicine except as described in this subsection (1) without first complying with all of the provisions of the "Colorado Medical Practice Act".

(2) The governor may appoint an interagency council to serve at his or her pleasure, to be composed of such representatives as he or she may select from the departments of public health and environment, labor and employment, health care policy and financing, human services, personnel, and such other state officers and officials as he or she may deem appropriate.

(3) The governor may appoint advisory boards to consult with the executive director and the chief officer of any institution within the jurisdiction of the department. Any such advisory board shall consist of not less than five nor more than fifteen persons recognized or known to be interested and informed in the area of the institution's purpose and function. Members of the advisory boards shall serve without compensation but may be reimbursed for actual and necessary expenses incurred in attending regular meetings. Advisory boards established pursuant to this subsection (3) shall meet quarterly and during any interim on call of the executive director.

**27-90-102. Duties of executive director - governor acquire water rights - rules.** (1) The duties of the executive director shall be:

(a) To manage, supervise, and control the charitable, mental, custodial, and special educational public institutions operated and supported by the state; to manage and supervise the special agencies, departments, boards, and commissions transferred to or established within the department by law; to improve, develop, and carry forward programs of therapy, counseling, and aftercare to the end that a person dependent upon tax-supported programs may be afforded opportunity and encouragement to overcome the disability causing his or her partial or total dependence upon the state;

(b) To supervise the business, fiscal, budget, personnel, and financial operations of the department and the institutions and activities under his or her control;

(c) In consultation with the several superintendents, the chief officer of the Colorado

mental health institute at Pueblo, the head of the administrative division for the Colorado mental health institute at Fort Logan, and the director of the division of planning, to develop a systematic building program providing for the projected, long-range needs of the institutions under his or her control;

(d) To classify the lands connected with the state institutions under his or her control and determine which are of such character as to be most profitably used for agricultural purposes, taking into consideration the needs of all state institutions for the food products that can be grown or produced thereon and the relative value of such agricultural use in the treatment or rehabilitation of the persons confined in those institutions;

(e) To the extent practical, to utilize the staff and services of other state agencies and departments, within their respective statutory functions, including administrative law judges appointed pursuant to part 10 of article 30 of title 24, C.R.S., to carry out the purposes of this article;

(f) To examine and evaluate each child committed to the department and to place each child so committed as provided in section 19-2-922, C.R.S.;

(g) To transfer between appropriate state institutions children committed to the department as provided in section 19-2-923, C.R.S.;

(h) To require of the head of each institution and agency assigned to the department an annual report containing information, and submitted at a time, as the executive director decides;

(i) To exercise control over publications of the department and subdivisions thereof and cause publications that are approved for circulation in quantity outside the executive branch to be issued in accordance with the provisions of section 24-1-136, C.R.S.;

(j) To implement the procedures regarding children who are in detention or who have or may have mental illness or developmental disabilities specified in the provisions of the "Colorado Children's Code" contained in articles 1, 2, and 3 of title 19, C.R.S.;

(k) To carry out the duties prescribed in article 11.7 of title 16, C.R.S.; and

(l) To provide information to the director of research of the legislative council concerning population projections, research data, and the projected long-range needs of the institutions under the control of the executive director and any other related data requested by the director.

(2) The executive director shall have such other powers, duties, and functions as are prescribed for heads of principal departments in the "Administrative Organization Act of 1968", article 1 of title 24, C.R.S.

(3) On behalf of the state of Colorado, the governor is authorized to acquire water and water rights for the operation of the Colorado mental health institute at Fort Logan. Title to that property may be acquired in fee simple absolute by purchase, donation, or the exercise of the power of eminent domain through condemnation proceedings in accordance with law from funds made available by the general assembly.

(4) (a) (I) The executive director shall appoint a board of medical consultants.

(II) The executive director shall determine the membership of the board based on the medical and surgical needs of the department.

(III) The executive director shall determine the qualifications for appointment to the board of medical consultants; except that all members of the board shall be licensed by the

Colorado medical board pursuant to article 36 of title 12, C.R.S.

(b) A person serving on the board of medical consultants shall provide not more than one thousand hours of consultation per year in his or her capacity as a board member.

(c) Members of the board of medical consultants shall be compensated at a rate that shall be approved by the executive director. Compensation shall be paid from available funds of the department.

(d) The board members shall act as medical consultants to the department with respect to persons receiving services from the institutions listed in section 27-90-104 and from any institution operated pursuant to part 11 of article 2 of title 19, C.R.S.

(e) A member of the board of medical consultants, for all activities performed within the course and scope of his or her responsibilities to the department, is a "public employee" as defined in section 24-10-103 (4), C.R.S.

(5) (a) The executive director shall have authority to adopt "executive director rules", as described in section 26-1-108, C.R.S., for programs administered and services provided by the department as set forth in this title. The rules shall be promulgated in accordance with the provisions of section 24-4-103, C.R.S.

(b) Whenever a statutory grant of rule-making authority in this title refers to the department, state department, or the department of human services, it shall mean the department of human services acting through either the state board of human services or the executive director or both. When exercising rule-making authority under this title, the department, either acting through the state board or the executive director, shall establish rules consistent with the powers and the distinction between "board rules" as set forth in section 27-90-103 and "executive director rules" as set forth in this section.

(c) Any rules adopted by the state board of human services to implement the provisions of this title prior to March 25, 2009, whose content meets the definition of "executive director rules" shall continue to be effective until revised, amended, or repealed by the executive director.

**27-90-103. State board of human services - rules.** (1) The state board of human services, created in section 26-1-107, C.R.S., is authorized to adopt "board rules" as necessary to implement the programs administered and the services provided by the department as provided in this title. The rules shall be promulgated in accordance with the provisions of section 24-4-103, C.R.S.

(2) "Board rules" are rules promulgated by the state board of human services governing:

(a) Program scope and content;

(b) Requirements, obligations, and rights of clients and recipients;

(c) Nonexecutive director rules concerning vendors, providers, and other persons affected by acts of the department.

(3) (a) Any rules adopted by the executive director to implement the provisions of this title prior to March 25, 2009, whose content meets the definition of "board rules" shall continue to be effective until revised, amended, or repealed by the state board of human services.

(b) Any rules adopted by the state board to implement the provisions of this title prior to

March 25, 2009, whose content meets the definition of "executive director rules" shall continue to be effective until revised, amended, or repealed by the executive director.

(4) Whenever a statutory grant of rule-making authority in this title refers to the department, the state department, or the department of human services, it shall mean the department of human services acting through either the state board of human services or the executive director. When exercising rule-making authority under this title, the state department, either acting through the state board or the executive director, shall establish rules consistent with the powers and the distinction between "board rules" as set forth in this section and "executive director rules" as set forth in section 27-90-102.

**27-90-104. Institutions managed, supervised, and controlled.** (1) The department shall manage, supervise, and control the following state institutions:

(a) Colorado mental health institute at Pueblo;

(b) Wheat Ridge regional center;

(c) Grand Junction regional center;

(d) Lookout Mountain school, at Golden;

(e) Mount View school, at Morrison;

(f) Colorado mental health institute at Fort Logan, in Denver;

(g) Golden Gate youth camp, in Gilpin county;

(h) Lathrop Park youth camp, in Huerfano county; and

(i) Pueblo regional center.

**27-90-105. Future juvenile detention facility needs.** (1) (a) The general assembly hereby finds and declares that currently there are no juvenile detention facilities with commitment beds or locked detention beds in the southwest portion of Colorado and that the nearest such facility in the Grand Junction or Glenwood Springs area is as much as four hours away from some southwestern communities. As a result of this distance, authorities in the southwest region of the state often avoid detention even though such avoidance presents a public safety problem, and those juveniles who are taken to distant facilities lose the critical access to family members and local community agencies that would otherwise render their transitional return to the community less difficult.

(b) The general assembly further finds and declares that the juvenile population in detention is expected to increase by seventy and nine hundredths percent by the year 2002. In addition, the general assembly finds and declares that the juvenile commitment population is expected to increase by forty-nine and nine-tenths percent by the year 2002. The general assembly finds and declares that the growth patterns on the western slope of the state have led to a growth in population of at-risk youth and increased crime and that the office of youth services accordingly has experienced a shortfall of both detention and commitment beds in the western part of the state.

(c) The general assembly therefore determines that it would be appropriate to consider the need for the construction of a juvenile detention facility in southwest Colorado.

(2) (a) The department is directed to assess the need for, and to determine the community commitment to, a new multipurpose juvenile detention facility to be constructed in La Plata county that would serve the following detention and treatment needs of juveniles in the southwest portion of the state:

(I) Secure facility housing of juveniles who are detained on juvenile-related charges; and

(II) Secure facility and medium secure facility housing of juveniles who are committed to the division of youth corrections.

(b) In assessing the need for such a facility and the services to be rendered at such a facility, the department shall evaluate privatization options.

(3) The department shall present its findings, conclusions, and recommendations to the capital development committee of the general assembly on or before November 1, 1996.

**27-90-106. Legislative review of facilities program plans for juvenile facilities.** (1) Prior to any appropriation by the general assembly for the construction of a new, expanded, renovated, or improved juvenile facility, and no later than November 1 prior to the beginning of the budget year for which the appropriation is made, the department shall submit a proposed facility program plan for each proposed new, expanded, renovated, or improved juvenile facility to the capital development committee. The capital development committee shall make a recommendation regarding the facility program plan to the joint budget committee. The general assembly may contract with a consultant to provide assistance to the capital development committee and the joint budget committee in the review of facilities program plans submitted by the department.

(2) For the purposes of this section, "facility program plan" means a pre-architectural design program, as that term is understood in the architectural profession. A facility program plan shall include but need not be limited to the number of beds proposed to be included in the new juvenile facility or the addition to an existing juvenile facility, the primary security level of the proposed facility or addition, the staffing plan of the proposed facility or addition, and a description of any educational or ancillary support facilities required for the proposed facility or addition.

**27-90-107. Transfer of functions.** (1) The department has the authority to execute, administer, perform, and enforce the rights, powers, duties, functions, and obligations vested in the board of control of the state children's home, the board of control of the Mount View girls' school, and the division of administration of the division of parole prior to July 1, 1959.

(2) Except where the context plainly requires otherwise, "board" or "boards of control", with reference to the institutions and the division listed in subsection (1) of this section, means and refers to the department of human services.

**27-90-108. Transfer of employees, records, and property - retirement benefits protected - decision of governor.** (1) All employees of the division of administration of the

division of parole and all employees of the boards of control enumerated in section 27-90-107 who were engaged in the performance of duties prescribed and supervised by the division of administration of the division of parole and the boards, respectively, and who were transferred to the department of institutions on July 1, 1959, shall retain all rights to retirement benefits under the laws of the state, and their services shall be deemed to have been continuous. All funds, accounts, books, records, documents, and equipment of the boards and the division of administration of the division of parole became the property of the department of institutions on July 1, 1959.

(2) All questions pertaining to the proper disposition of funds, accounts, books, records, documents, or equipment arising under this article and section 17-1-101, C.R.S., and caused by the transfer of powers, duties, rights, functions, and obligations from any board of control to the department of institutions shall be determined by the governor.

(3) Whenever in this article a department, agency, division, or unit thereof is transferred to the department of institutions, the provisions of subsections (1) and (2) of this section shall be declared applicable in effecting such transfer.

**27-90-109. Department may accept gifts, donations, and grants.** The department or any institution managed, supervised, and controlled by the department may accept or refuse to accept, on behalf of and in the name of the state, gifts, donations, and grants, including grants of federal funds, for any purpose connected with the work or programs of the department or of any such institution. The executive director, with the approval of the governor, has the power to direct the disposition of any such gift, donation, and grant so accepted for any purpose consistent with the terms and conditions under which given.

**27-90-110. Rules for this article and certain provisions in title 19, C.R.S.** Pursuant to section 24-4-103, C.R.S., the department shall promulgate such rules as are necessary to implement the provisions of this article and the procedures specified in sections 19-2-508, 19-2-906, 19-2-922, 19-2-923, 19-3-403, 19-3-506, 19-3-507, and 19-3-508, C.R.S., regarding children who are in detention or who have or may have mental illness or developmental disabilities.

**27-90-111. Employment of personnel - screening of applicants - disqualifications from employment.** (1) The general assembly hereby recognizes that many of the individuals receiving services from persons employed by the department pursuant to this title or title 26, C.R.S., are unable to defend themselves and are therefore vulnerable to abuse or assault. It is the intent of the general assembly to minimize the potential for hiring and employing persons with a propensity toward abuse, assault, or similar offenses against others for positions that would provide them with unsupervised access to vulnerable persons. The general assembly hereby declares that, in accordance with section 13 of article XII of the state constitution, for purposes of terminating employees in the state personnel system who are finally convicted of criminal

conduct, offenses involving moral turpitude include, but are not limited to, the disqualifying offenses specified in subsection (9) of this section.

(2) For purposes of this section, unless the context otherwise requires:

(a) "Contracting employee" means a person who contracts with the department and who is designated by the executive director or the executive director's designee as serving in a contract position involving direct contact with vulnerable persons.

(b) "Conviction" means a verdict of guilty by a judge or jury or a plea of guilty or nolo contendere that is accepted by the court or adjudication for an offense that would constitute a criminal offense if committed by an adult. "Conviction" also includes having received a deferred judgment and sentence or deferred adjudication; except that a person shall not be deemed to have been convicted if the person has successfully completed a deferred sentence or deferred adjudication.

(c) "Direct contact" means providing face-to-face care, training, supervision, counseling, consultation, or medication assistance to vulnerable persons, regardless of the level of supervision of the employee. "Direct contact" may include positions in which persons have access to or unsupervised time with clients or patients, including but not limited to maintenance personnel, housekeeping staff, kitchen staff, and security personnel.

(d) "Employee" means an employee of the department who is under the state personnel system of the state of Colorado.

(e) "Vulnerable person" means any individual served by the department who is susceptible to abuse or mistreatment because of the individual's circumstances, including but not limited to the individual's age, disability, frailty, mental illness, developmental disability, or ill health.

(3) The employment screening and disqualification requirements in this section apply to the following facilities or programs operated by the department:

(a) Any facility operated by the department for the care and treatment of persons with mental illness pursuant to article 65 of this title;

(b) Any facility operated by the department for the care and treatment of the developmentally disabled pursuant to article 10.5 of this title;

(c) Vocational rehabilitation services provided pursuant to article 8 of title 26, C.R.S.;

(d) Any direct services identified and provided by the department in which employees have direct contact with vulnerable persons in a state-operated facility or in a vulnerable person's home or residence;

(e) Veterans community living centers operated pursuant to article 12 of title 26, C.R.S.;

(f) Any facility directly operated by the department in which juveniles who are in the custody of the department reside, including detention or commitment centers; and

(g) Any secure facility contracted for by the department pursuant to section 19-2-403, C.R.S., in which juveniles who are in the custody of the department reside.

(4) Prior to the department's permanent employment of a person in a position that would require that person to have direct contact with any vulnerable person, the executive director or any division head of the department shall make an inquiry to the director of the Colorado bureau of investigation to ascertain whether the person has a criminal history. The person's employment shall be conditional upon a satisfactory criminal background check. Any criminal background

check conducted pursuant to this subsection (4) shall include but need not be limited to arrests, conviction records, and the disposition of any criminal charges. The department shall require the person to have his or her fingerprints taken by a local law enforcement agency. The local law enforcement agency shall forward those fingerprints to the Colorado bureau of investigation for the purpose of fingerprint processing utilizing the files and records of the Colorado bureau of investigation and the federal bureau of investigation. The department shall pay for the costs of criminal background checks conducted pursuant to this section out of existing appropriations.

(5) The executive director or any division head shall contact previous employers of any person who is one of the top three finalists for a position that would require that person to have direct contact with any vulnerable person, for the purpose of obtaining information and recommendations that may be relevant to the person's fitness for employment. Any previous employer of an applicant for employment who provides information to the executive director or a division head or who makes a recommendation concerning the person shall be immune from civil liability unless the information is false and the previous employer knows such information is false or acts with reckless disregard concerning the veracity of the information.

(6) Any local agency or provider of services pursuant to this title or title 26, C.R.S., may investigate applicants for employment.

(7) The executive director, any division head, or any local agency or provider who relies on information obtained pursuant to this section in making an employment decision or who concludes that the nature of any information disqualifies the person from employment as either an employee or a contracting employee shall be immune from civil liability for that decision or conclusion unless the information relied upon is false and the executive director, division head, or local agency or provider knows the information is false or acts with reckless disregard concerning the veracity of the information.

(8) The executive director may promulgate such rules as are necessary to implement the provisions of this section.

(9) (a) If the criminal background check conducted pursuant to subsection (4) or (11) of this section indicates that a prospective employee or prospective contracting employee was convicted of any of the disqualifying offenses set forth in paragraph (b) or (c) of this subsection (9), the person shall be disqualified from employment either as an employee or as a contracting employee in a position involving direct contact with vulnerable persons. A person who is disqualified as a result of this section shall not be hired or retained by the department in a position involving direct contact with vulnerable persons nor be eligible to contract for or continue in a contract position designated by the executive director or the executive director's designee as involving direct contact with vulnerable persons.

(b) Except as otherwise provided in paragraph (d) of this subsection (9), a person shall be disqualified from employment either as an employee or as a contracting employee regardless of the length of time that may have passed since the discharge of the sentence imposed for any of the following criminal offenses:

(I) A crime of violence, as defined in section 18-1.3-406, C.R.S.;

(II) Any felony offense involving unlawful sexual behavior, as defined in section 16-22-102 (9), C.R.S.;

(III) Any felony, the underlying factual basis of which has been found by the court on the

record to include an act of domestic violence, as defined in section 18-6-800.3, C.R.S.;

(IV) Any felony offense of child abuse, as defined in section 18-6-401, C.R.S.; or

(V) Any felony offense in any other state, the elements of which are substantially similar to the elements of any of the offenses described in subparagraph (I), (II), (III), or (IV) of this paragraph (b).

(c) Except as otherwise provided in paragraph (d) of this subsection (9), a person shall be disqualified from employment either as an employee or as a contracting employee if less than ten years have passed since the person was discharged from a sentence imposed for conviction of any of the following criminal offenses:

(I) Third degree assault, as described in section 18-3-204, C.R.S.;

(II) Any misdemeanor, the underlying factual basis of which has been found by the court on the record to include an act of domestic violence, as defined in section 18-6-800.3, C.R.S.;

(III) Violation of a protection order, as described in section 18-6-803.5, C.R.S.;

(IV) Any misdemeanor offense of child abuse, as defined in section 18-6-401, C.R.S.;

(V) Any misdemeanor offense of sexual assault on a client by a psychotherapist, as defined in section 18-3-405.5, C.R.S.; or

(VI) Any misdemeanor offense in any other state, the elements of which are substantially similar to the elements of any of the offenses described in subparagraph (I), (II), (III), (IV), or (V) of this paragraph (c).

(d) If a person was adjudicated a juvenile delinquent for the commission of any disqualifying offense set forth in either paragraph (b) or (c) of this subsection (9) and more than seven years have elapsed since the commission of the offense, the person may submit a written request to the executive director as provided in subsection (13) of this section for reconsideration of the disqualification.

(10) (a) Any employee who is employed in a position involving direct contact with vulnerable persons and who is arrested, charged with, or issued a summons and complaint for any of the disqualifying offenses set forth in paragraph (b) or (c) of subsection (9) of this section shall inform his or her supervisor of the arrest, charges, or issuance of a summons and complaint before returning to work. Any employee who fails to make such a report or disclosure may be terminated from employment. The department or any facility operated by the department shall advise its employees and contracting employees in writing of the requirement for self-reporting of the disqualifying offenses set forth in paragraph (b) or (c) of subsection (9) of this section.

(b) An employee who is charged with any of the disqualifying offenses set forth in paragraph (b) of subsection (9) of this section shall be suspended until resolution of the criminal charges or completion of administrative action by the department. An employee who is charged with any of the disqualifying offenses set forth in paragraph (c) of subsection (9) of this section may be suspended at the discretion of the department until resolution of the criminal charges or completion of administrative action by the department. The employee shall inform his or her supervisor of the disposition of the criminal charges. Any employee who fails to report such information may be terminated from employment. Upon notification to the department that the employee has received a conviction for any of the disqualifying offenses described in paragraph (b) or (c) of subsection (9) of this section, the employee shall be terminated from employment.

Nothing in this paragraph (b) shall prohibit the department from taking administrative action if the employee's conduct would justify disciplinary action under section 13 of article XII of the state constitution for failure to comply with standards of efficient service or competence or for willful misconduct, willful failure, or inability to perform his or her duties.

(11) The general assembly recognizes that the department contracts with persons to serve in positions that involve direct contact with vulnerable persons in state-operated facilities or to provide state-funded services that involve direct contact with vulnerable persons in the homes and residences of such vulnerable persons. In order to protect vulnerable persons who come into contact with these contracting employees, the executive director or the executive director's designee shall designate those contract positions that involve direct contact with vulnerable persons that shall be subject to the provisions of this subsection (11). In any contract initially entered into or renewed on or after July 1, 1999, concerning a contract position that has been designated as involving direct contact with vulnerable persons, the department shall include the following terms and conditions:

(a) That the contracting employee shall submit to a criminal background check as described in subsection (4) of this section for state employees;

(b) That the contracting employee shall report any arrests, charges, or summonses for any of the disqualifying offenses specified in paragraph (b) or (c) of subsection (9) of this section to the contracting employee's supervisor at the department before returning to work;

(c) That the contracting employee may be suspended or terminated, at the discretion of the department, prior to the resolution of the criminal charges for any of the disqualifying offenses specified in paragraph (b) or (c) of subsection (9) of this section;

(d) That, upon notification to the department that the contracting employee has received a conviction for any of the disqualifying offenses described in paragraph (b) or (c) of subsection (9) of this section, the contracting employee's position with the department shall be terminated.

(12) An employee or contracting employee who is disqualified due to conviction of any of the disqualifying offenses set forth in paragraph (b) or (c) of subsection (9) of this section may submit a written request to the executive director for reconsideration of the disqualification. Reconsideration under this subsection (12) may only be based on a mistake of fact such as an error in the identity of the person for whom the criminal background check was performed. If the executive director determines that there was a mistake of fact involving the identity of the person, the executive director shall issue a finding that the disqualifying factor is not a bar to the person's employment either as an employee or as a contracting employee.

(13) (a) An employee or contracting employee who is disqualified for conviction of an offense specified in paragraph (c) of subsection (9) of this section may submit a written request to the executive director for reconsideration of the disqualification and a review of whether the person poses a risk of harm to vulnerable persons. In reviewing a disqualification, the executive director shall give predominant weight to the safety of vulnerable persons over the interests of the disqualified person. The final determination shall be based upon a review of:

(I) The seriousness of the disqualifying offense;

(II) Whether the person has a conviction for more than one disqualifying offense;

(III) The vulnerability of the victim at the time the disqualifying offense was committed;

(IV) The time elapsed without a repeat of the same or similar disqualifying offense;

(V) Documentation of successful completion of training or rehabilitation pertinent to the disqualifying offense; and

(VI) Any other relevant information submitted by the disqualified person.

(b) The decision of the executive director shall constitute final agency action.

(14) Nothing in this section shall be construed to preclude the department or the director of any facility operated by the department from adopting a policy regarding self-reporting of arrests, charges, or summonses or a policy regarding disqualification from employment that includes other offenses not set forth in paragraph (b) or (c) of subsection (9) of this section.

## ARTICLE 91

Institutions - General Administrative Provisions

**27-91-101. Legislative declaration.** The purpose of this section and section 27-91-102 is to provide for the payment of actual expenses only, in lieu of stated salaries and mileage, to all members of boards of control of state institutions.

**27-91-102. Boards of control entitled only to actual expenses.** A member of a board of control, trustees, or commissioners of all institutions supported by or under the patronage and control of the state shall receive as compensation for his or her services only actual expenses incurred in attendance upon and in going to and returning from each regular and special meeting of the board of control, trustees, or commissioners or for performing any services whatever for the institution of which he or she is a member of the board of control, trustees, or commissioners, payment to be made out of the funds appropriated for the support and maintenance of the respective institutions. In all cases of cash paid out by the member of a board of control, trustees, or commissioners, an itemized account, accompanied by the proper vouchers therefor, signed by the party to whom such money has been paid, shall accompany the vouchers upon which all warrants for such expenditures shall issue.

**27-91-103. Debts in excess of appropriation - emergencies.** The various officers designated by law to control and direct the fiscal affairs of the several state institutions shall not contract within any year any indebtedness in excess of the amount named in any appropriation made for the support of any state institution during that time; but, in cases of emergency, the governor may authorize the contraction of such indebtedness that in his or her judgment is absolutely necessary for the maintenance and support of the institution, until such time as the general assembly meets. The officers of any state institution, supported by the levy of any special

tax, shall contract no indebtedness in any year in excess of eighty percent of the gross amount of the levy made for that year from which to support that institution.

**27-91-104. The term "officer" includes members of boards.** The term "officer" as used in section 27-91-105 includes any member of the various boards created by law to govern or supervise the respective state institutions.

**27-91-105. Indebtedness limited to appropriation.** It is unlawful for any officer of any state institution of this state to incur or contract any indebtedness for, on behalf of, or in the name of the state institution or in the name of the state in excess of the sum appropriated by the general assembly for the use or support of the institution for the fiscal year. An officer of any state institution shall not draw any money from the state treasury unless the same is absolutely needed and required by the institution at the time, and then only upon the warrant of the controller.

**27-91-106. Violation - penalty.** Any person who violates any of the provisions of section 27-91-105 is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than three hundred dollars.

**27-91-107. Purchase of supplies by and from institutions.** (1) The following designated state institutions are within the purview of this section: All facilities of the departments of corrections and human services, the Colorado mental health institute at Pueblo, the Wheat Ridge regional center, the Grand Junction regional center, the Pueblo regional center, the Lookout Mountain school at Golden, the Mount View school at Morrison, the Colorado industries for the blind, and the Colorado psychiatric hospital.

(2) When any of the institutions enumerated in subsection (1) of this section are in need of supplies that are grown, produced, or manufactured by any other of the institutions, it shall purchase the same from the other institution if it has a surplus thereof of suitable quality available for sale at a price not in excess of the current market price for such supplies, and it is the duty of the managing boards of such respective institutions to require observance of the provisions of this section.

**27-91-108. Display of flags.** (1) The chief administrative officer of any state institution supported in whole or in part by the state and under the control of the state shall have erected and maintained, at the entrance of the institution or on the principal administrative building or grounds thereof, a suitable flagstaff with the attachments necessary for the display of flags and shall cause to be displayed thereon the flags of the United States and of the state of Colorado. The flag of the state of Colorado shall be the same size as the flag of the United States with which it is displayed. If both flags are displayed on one flagstaff, the flag of the state of Colorado

shall be placed below the flag of the United States.

(2) (a) The chief administrative officer of any court facility supported in whole or in part by the state and under the control of the state shall cause to be permanently and prominently displayed the flag of the United States, as described in chapter 1 of title 4, U.S.C., in each courtroom when a court proceeding is in session. A flag displayed in a courtroom must measure three by five feet. No alleged failure to cause the flag of the United States to be permanently and prominently displayed in a courtroom supported in whole or in part by the state and under the control of the state shall be the basis of any challenge to such court's authority or jurisdiction or for any appeal of any decision, order, or judgment of such court.

(b) The flags of the United States and of the state of Colorado shall be permanently and prominently displayed in all committee rooms under the control of the general assembly of the state of Colorado.

(c) On and after September 1, 1996, the chief administrative officer of any school supported in whole or in part by the state and under the control of the state shall cause to be displayed permanently and prominently the flag of the United States, as described in chapter 1 of title 4, U.S.C., in each academic classroom when an academic class is in session. A flag displayed in an academic classroom shall measure no less than either twelve by eighteen inches if it is displayed in a frame or two by three feet if it is displayed on a flagstaff.

(3) The chief administrative officer of any school or court facility supported in whole or in part by the state and under the control of the state is hereby authorized to accept donations of flags to be displayed in classrooms or courtrooms pursuant to the provisions of subsection (2) of this section.

(4) (a) The chief administrative officer of any state institution, school, or court facility described in this section shall not permit the display of any depiction or representation of a flag of the United States that is intended for public view and permanently affixed or attached to any part of the building or grounds of said state institution, school, or court facility, and which display does not conform with 4 U.S.C. sec. 7.

(b) Nothing in this subsection (4) shall be construed to preclude the temporary display of any instructional or historical materials or student work product included as part of a lesson not permanently affixed or attached to any part of said building or grounds.

(5) Any flag of the United States displayed pursuant to this section shall be displayed as described in 4 U.S.C. sec. 7.

**27-91-109. Personal display of flags.** (1) The right to display reasonably the flag of the United States shall not be infringed with respect to the display:

(a) On an individual's person;

(b) Anywhere on an individual's personal or real property; and

(c) In the buildings or on the grounds of any tax-supported property in the state; except that the state or political subdivision that has jurisdiction over the building or grounds may adopt reasonable rules and regulations regarding the size, number, placement, manner of display, and lighting of the flag, and the location, size, and height of flagpoles.

(2) (a) Notwithstanding any provision of subsection (1) of this section to the contrary, the

right with respect to an individual's real property shall be subject to reasonable restrictive covenants or equitable servitudes; except that no such covenant or servitude, nor any owners' association shall prohibit the outdoor display of the flag of the United States by a property owner on that owner's property if the flag is displayed in a manner consistent with chapter 1 of title 4 of the United States Code, as amended.

(b) Notwithstanding any provision of paragraph (a) of this subsection (2) to the contrary, an owners' association, the state, or a political subdivision may adopt reasonable rules and regulations regarding the size, number, placement, manner of display, and lighting of the flag, and the location, size, and height of flagpoles.

(3) For purposes of this section, "display reasonably" shall be presumed to include a display of the flag of the United States that is consistent with chapter 1 of title 4 of the United States Code, as amended.

(4) A right described in subsection (1) of this section is a civil right of free speech and a protected form of expression under the first amendment to the United States constitution and section 10 of article II of the state constitution.

## ARTICLE 92

Institutions - Charges for Patients

**27-92-101. Liability.** (1) When a person is admitted, committed, or transferred to a public institution of this state supervised by the department of human services for the care, support, maintenance, education, or treatment of persons with mental illness, the person, his or her spouse, and his or her parents shall be liable for the costs of his or her care, support, maintenance, and treatment to the extent and in the manner provided in this article. No other relatives of the person shall be liable to any extent for such costs.

(2) The provisions of this article shall apply also to those persons received under the provisions of article 8 of title 16 and sections 16-13-216, 19-2-922, and 19-2-923, C.R.S., but not by way of exclusion.

**27-92-102. Cost determination.** (1) The department of human services shall periodically determine the individual cost for the care, support, maintenance, treatment, and education of the patients of each of the public institutions supervised by the department of human services. In making the determination, it is proper for the department to use averaging methods to the extent that it is not practicable, in the judgment of the executive director of the department of human services, to compute the actual cost for each patient.

(2) With respect to a resident patient who is under the age of twenty-one years, the department of human services shall deduct from the determined cost an amount equal to the

average per capita cost for the education of children with disabilities pursuant to article 20 of title 22, C.R.S.

**27-92-103. Extent of liability.** (1) The department of human services shall assess against the patient, spouse, or parents made liable by section 27-92-101, or any of them, all or such part of the cost as they are respectively able to pay, but the department of human services shall not assess against the liable persons in the aggregate more than the whole of such cost.

(2) The liability of each parent shall cease when such parent has completed the payments as assessed in this article or upon the patient's eighteenth birthday, whichever event first occurs.

**27-92-104. Determination of ability to pay.** (1) All insurance and other benefits payable for the care, support, maintenance, and treatment of a patient shall be considered available for payment of the cost determined under section 27-92-102.

(2) The department of human services shall determine the ability of a patient and his or her spouse to pay the balance of the cost by consideration of the following factors: Income reportable under Colorado law; the age of the patient and spouse; the number of dependents, their ages, and their mental and physical condition; provision for retirement years; the length of the patient's care or treatment; liabilities; and assets. The determination shall be made according to schedules contained in published rules, adopted in accordance with the provisions of article 4 of title 24, C.R.S.

(3) If it is determined that the patient and his or her spouse are unable to pay the entire cost determined under section 27-92-102 and the length of the patient's care and treatment at a state institution is reasonably anticipated to be less than six months, the department of human services shall determine the parent's ability to pay by consideration of the same factors referred to in subsection (2) of this section, applying each such factor to the parent.

(4) If it is determined that the patient and his or her spouse are unable to pay the entire cost determined under section 27-92-102 and the length of the patient's care and treatment at a state institution is reasonably anticipated to exceed six months, the department of human services shall determine the parent's ability to pay by reference to the parent's net taxable income reportable under Colorado law and to the patient's length of care or treatment. At the request of the parent, the department shall also consider other factors relevant to the interest of avoiding undue hardship to the family unit. Other factors may include the parent's age, provision for retirement years, assets, liabilities, and the number of dependents, their mental and physical condition, and their educational requirements. The determination shall be made according to schedules contained in published rules adopted in accordance with the provisions of article 4 of title 24, C.R.S.

(5) Should any parent not file a Colorado income tax return, the parent's net Colorado taxable income equivalent shall be determined by reference to his or her United States income tax return as though all the income disclosed by that return had been derived from sources within Colorado, and the table of rates shall be applied to the net taxable income equivalent.

(6) Upon the willful failure of any patient, spouse, or parent to furnish to the department

of human services, upon request, copies of his or her income tax returns, he or she shall be deemed to have the ability to pay the entire cost determined under this article.

(7) Every agency and department of the state is required to render all reasonable assistance to the executive director of the department of human services in obtaining all information necessary for proper implementation of the purposes of this article. Nothing in this subsection (7) shall be construed to require the department of revenue to produce a copy of any person's income tax return solely upon the request of the department of human services, but the department of revenue shall deliver a copy of any such return upon the request of the taxpayer or his or her duly authorized representative, pursuant to section 39-21-113 (4), C.R.S.

**27-92-105. Effect of determination.** A determination of the ability of a patient, spouse, or parent to pay shall remain in effect until a redetermination is made.

**27-92-106. Appeal.** Appeals from the determination of the ability of a patient or relative to pay, as provided in this article, may be taken to any court of record in Colorado having jurisdiction of the patient or his or her spouse or parents liable for payment; but no appeal may be taken until the executive director of the department of human services has ruled upon a written request for a review of the determination. The request shall be made within sixty days after receipt of notification of the determination, and the applicant shall be notified of the decision of the executive director within forty-five days after the receipt of the applicant's request for review.

**27-92-107. Service.** Service of any notification, information, or request for information, review, or redetermination, accomplished by certified mail, return receipt requested, or in any manner provided by the Colorado rules of civil procedure, shall be sufficient for all purposes of this article.

**27-92-108. Certificate - prima facie evidence.** In any action or proceeding to enforce the claims of the state provided for in this article, a certificate by the chief administrative officer of the institution involved or the executive director of the department of human services as to any fact or matter necessary to the establishment of the claim which is a matter of record in the institution or in the department of human services shall constitute prima facie evidence.

**27-92-109. Further actions.** (1) A patient, spouse, or parent liable by this article who fails to pay the amounts assessed pursuant to this article shall be proceeded against in any manner authorized by law for the collection of sums due and owing to the state of Colorado.

(2) All property of persons liable pursuant to this article shall be subject to application to claims irrespective of its origin, composition, or source subject to the exemptions set forth in section 13-54-102, C.R.S.

(3) Claims against responsible relatives in other states may be enforced as claims for support under the provisions of the "Uniform Interstate Family Support Act", article 5 of title 14, C.R.S.

(4) In the absence of fraud, the patient, spouse, and parents shall be liable only to the extent of assessments actually made against them respectively in accordance with this article.

## ARTICLE 93

Colorado Mental Health Institute at Pueblo

**27-93-101. Institute established.** (1) There is hereby established the Colorado mental health institute at Pueblo for the treatment and cure of persons who may have mental illness from any cause and for other persons in state institutions on an inpatient and outpatient basis and in state programs relating to the treatment of alcoholism and drugs who may require medical care and treatment within the capabilities of the staff and facilities of the institute.

(2) All materials without limitation that contain the former names of the Colorado mental health institute at Fort Logan and the Colorado mental health institute at Pueblo shall be utilized to the maximum extent possible in the ordinary course of business before being replaced.

(3) The Colorado mental health institute at Pueblo is authorized to contract, pursuant to the federal government procurement process, with federal agencies to provide psychiatric, medical, and surgical services at the institute to persons under the care of or in the custody or control of an agency of the federal government, so long as the provision of such services does not exceed the capabilities of the staff and facilities of the institute and does not preempt services to state patients.

**27-93-102. Capacity to take property.** The Colorado mental health institute at Pueblo is authorized to receive gifts, legacies, devises, and conveyances of property, real or personal, that may be made, given, or granted to or for the Colorado mental health institute at Pueblo. The chief officer of the institute, with the approval of the governor, shall make disposition of such gifts or property as may be for the best interest of said Colorado mental health institute at Pueblo.

**27-93-103. Employees - publications.** (1) The head of the administrative division overseeing the Colorado mental health institute at Pueblo shall appoint or employ, pursuant to section 13 of article XII of the state constitution, such administrators, physicians, nurses, attendants, and additional employees as may be necessary for the proper conduct of said institute. The head of the administrative division may contract with the board of regents of the university of Colorado health sciences center or any other governing board of a state-supported institution

of higher education for the provision of services by physicians and other health care practitioners when deemed necessary for the proper conduct of the institute. During the performance of any duties by the physicians and other health care practitioners for the department of human services, the physicians and other health care practitioners are "public employees" as defined in section 24-10-103 (4), C.R.S., and the limitation of section 24-30-1517 (2), C.R.S., shall not apply.

(2) Publications of the institute circulated in quantity outside the institute shall be subject to the approval and control of the executive director of the department of human services.

**27-93-104. Authorized utilization of medical facilities at institute - equipment replacement fund.** (1) A person committed to the custody of or cared for in the department of human services or the department of corrections who requires medical care and treatment that can be advantageously treated by psychiatric, medical, or surgical care available at the Colorado mental health institute at Pueblo may be treated at the institute. Charges for patient care and treatment shall be made in the manner provided in article 92 of this title. A specific appropriation shall be made annually for the general medical division of the Colorado mental health institute at Pueblo, based upon projections of the total patient load and associated costs from all institutions, and the department of human services shall determine at least annually the per diem expenses and the actual utilization of the general medical division by each institution, including other divisions of the Colorado mental health institute at Pueblo.

(2) A person under the care of or in the custody or control of an agency of the federal government whose psychiatric, medical, or surgical needs could be advantageously treated at the Colorado mental health institute at Pueblo may be treated at the institute pursuant to a contract between the institute and the agency of the federal government.

(3) A contract entered into pursuant to subsection (2) of this section shall cover the full direct and indirect costs of services as determined by generally accepted accounting principles and shall include a fee to cover the need for replacement of existing equipment which would occur because of this additional use. All fees collected pursuant to this subsection (3) shall be collected by the Colorado mental health institute at Pueblo and shall be transmitted to the state treasurer, who shall credit the same to the equipment replacement fund, which fund is hereby created. Moneys in the equipment replacement fund shall be appropriated by the general assembly on an annual basis to the department of human services for replacement of existing equipment made necessary pursuant to this section.

**27-93-105. Alternative uses for institute facilities.** The department of human services shall determine the existence of resources at the Colorado mental health institute at Pueblo that are in excess of the needs of the primary purpose of the institute and may make available to the regents of the university of Colorado, on mutually agreeable terms, a maximum of ten beds at the institute for the purpose of teaching students in the family practice medical training program conducted by and under the control of the regents. The resources shall be a supplement to any existing health care resources and academic facilities in the region.

## ARTICLE 94

Colorado Mental Health Institute at Fort Logan

**27-94-101. Legislative declaration.** In order to provide a program to promote mental health in the state of Colorado, a mental health center is established as provided in this article.

**27-94-102. Establishment of mental health center.** (1) There is hereby established at the site of Fort Logan, Denver county, Colorado, a mental health center to be known as the Colorado mental health institute at Fort Logan, referred to in this article as the "center". The center shall be under the general supervision and control of the department of human services.

(2) All materials without limitation that contain the former names of the Colorado mental health institute at Fort Logan and the Colorado mental health institute at Pueblo shall be utilized to the maximum extent possible in the ordinary course of business before being replaced.

**27-94-103. Employees - publications.** (1) The head of the administrative division overseeing the center shall appoint or employ, pursuant to section 13 of article XII of the state constitution, administrators, physicians, nurses, attendants, and additional employees as necessary for the proper conduct of the center. The head of the administrative division may contract with the board of regents of the university of Colorado health sciences center for the provision of services by physicians when deemed necessary for the proper conduct of the center, and during the performance of any duties by the physicians for the department of human services, the physicians are "public employees" as defined in section 24-10-103 (4), C.R.S., and the limitation of section 24-30-1517 (2), C.R.S., shall not apply.

(2) Publications of the center circulated in quantity outside the center shall be subject to the approval and control of the executive director of the department of human services.

**27-94-104. Capacity to take property.** The center is authorized to receive gifts, legacies, devises, and conveyances of property, real and personal, that may be granted or given to the center. The executive director of the department of human services, with the approval of the governor, shall make disposition of such property as may be for the best interest of said center.

**27-94-105. Admissions to center - transfers - releases.** (1) A person who by law is committed to the department of human services for placement in a state hospital may be committed to or placed in the center upon order of a court of competent jurisdiction, except those

persons committed to the Colorado mental health institute at Pueblo pursuant to a judicial determination of not guilty by reason of insanity and those persons committed under section 16-8-106 (1), C.R.S., relating to commitments for observation and examination.

(2) A person placed at the center may be transferred to the Colorado mental health institute at Pueblo, the Wheat Ridge regional center, the Grand Junction regional center, the Pueblo regional center, the Mount View school, or the Lookout Mountain school in accordance with law.

(3) A person placed at the center may be released under such terms and conditions as would entitle him or her to his or her release from the Colorado mental health institute at Pueblo.